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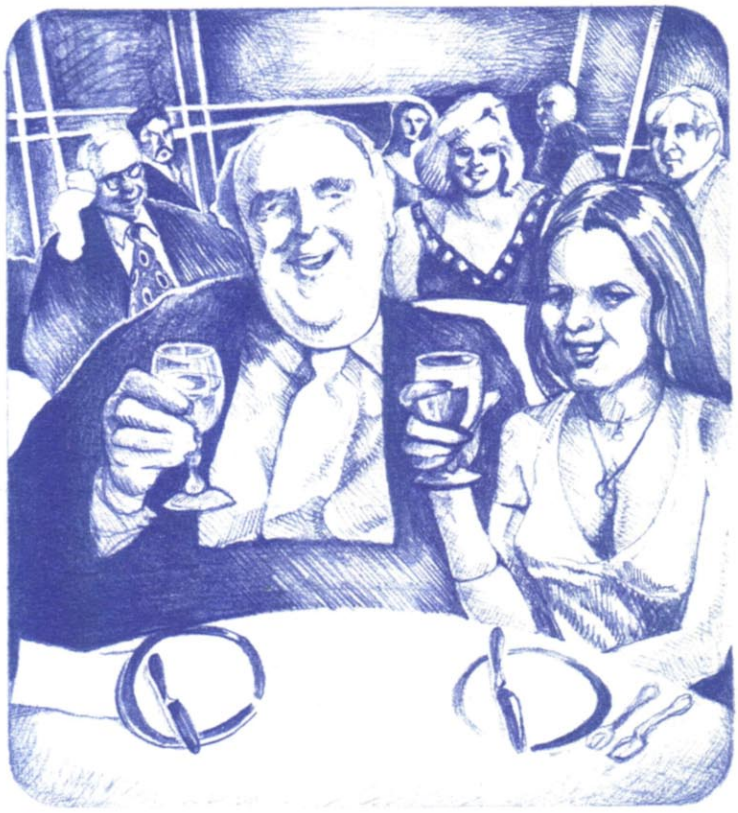
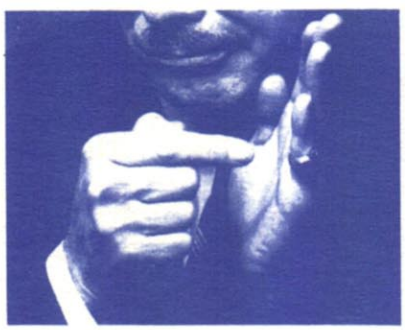
California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS



Adverse legislative IMAGE Is it accurate?



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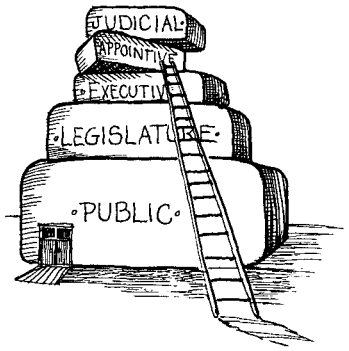
A PERSONAL PERSPECTIVE . . .

By Ed Salzman

The rise of appointive government



Take the highly hypothetical case of a farmer on the California coast who serves on his local school board and is negotiating with a utility firm for the sale of part of his property as a site for a nuclear powerplant. For that individual, the most important people in government are not the elected officials in Washington, Sacramento and the county seat, but the appointed members of the Coastal Zone Conservation Commission, the Agricultural Labor Relations Board, the Energy Resources, Conservation and Development Commission and the Educational Employment Relations Board.

Almost overnight, California has created a powerful new layer of government — the various independent commissions that have been given power to regulate business activities and have taken over authority previously vested in local government. And more of these commissions are undoubtedly on the way, such as the Agricultural Resources Council charged under legislation by Assemblyman Charles Warren with preventing the over-development of prime farmland.

These commissions are established for two main reasons: The public and the Legislature no longer have confidence in local government's ability to do an adequate job of protecting the environment, and a governmental problem is so complex today that a special organization is required to deal with it. In the first category, there are commissions to control development of San Francisco Bay, the Lake Tahoe Basin and the entire coastline. And, in the second, we have the Fair Political Practices Commission, the Commission on Teacher Preparation and Licensing and the agricultural and educational labor relations boards. (The Energy Commission was created in part because of legislative dissatisfaction with another independent agency of long standing, the Public Utilities Commission.)

The net effect of this phenomenon is to take decision-making power one more step away from the people. The public has relatively little recourse if it is unhappy about a policy established by one of these commissions; the commissioners do not stand for election, and in some cases there are limitations on who may serve. In the case of the Fair Political Practices Commission and the Coastal Zone Commission (through the end of this year), even the Legislature is relatively powerless to act because the agencies were established through initiative measures. This indicates that the public is willing to create these new commissions when it feels that representative government has failed.

The growth of the independent commission is probably the single most important development in the structure of California government over the past few years. The formation of a commission to solve a specific problem may not appear momentous. But put all the commissions together and you have a powerful new force that for bad or for good severely restricts the freedom of private business interests to operate, especially in land-development, and reduces the authority of cities and counties. It is a trend not to be taken lightly.

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The Republican Central Committee rang up a big success with a fund-raising letter signed by Julie Nixon Eisenhower. What does that tell us?

Architects rebuilding the state Capitol discovered 58 fireplaces hidden behind the walls — but only one chimney. Which led Associated Press bureau chief Doug Willis to observe: "One flue over the cuckoos' nest."

Reconstruction of the Capitol has prompted a new campaign to move representatives of the news media off the Senate and Assembly floors and into the balcony gallery areas.

Republican leaders feel that at least three GOP women will be elected to the Assembly this year, a significant breakthrough because the last GOP assemblywoman, Kathryn Niehouse of San Diego, was last elected in 1952. The three prime candidates: Marilyn Ryan, Marion Bergenson and Carol Hallett. They are running for the seats being vacated by Bob Beverly, Bob Badham and Bob Nimmo.

Toughest job in state government must be the one held by Les Halcomb, executive officer of the Little Hoover commission. How is he going to convince people that the Brown Administration is wasting money?

Bon voyage to long-time legislative staff member Bob Connelly, who built the 44-foot sloop *Sundance* in his barn over a four-year period and is now headed for Europe via the Panama Canal. Joining Connelly's crew will be another capitol refugee, Robin Lamson, formerly a consultant in the Assembly Office of Research.

What ever happened to the full-blown campaign to enact no-fault auto insurance in California?

A Sierra Club publication, *Perspective,* described Assemblywoman Pauline Davis and six other retiring legislators (all males) as "lame duck and drakes".

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ROSTRUM

Our Policy. *The* Journal *welcomes comments on articles or on issues involving California government and politics. First priority for publication in the "Rostrum" will be given to brief letters presenting significant viewpoints not previously expressed in the* Journal.
The rostrum is yours.

THE EDITORS

Plea for Brown ideas on tough water problem

Water is fast becoming a most expensive necessity in the California economy. A look into a "muddy crystal ball" offers ample proof of this assertion and provides proof that said costs will go higher. It has oft been said that water and oil don't mix. Californians ought to believe that the same holds true for politics and water.

There is going to have to be a sound bais of cooperative effort between the State of California and the Federal Government if any sanity is to prevail. There is too much at stake for prolonged ordeals over the "MacBride Decision". There is too much at stake to argue, year after year, about the merits of the contemplated Peripheral Canal project. Delta farming interests have their side of the question as do those who need to benefit from exported water from that sector.

Compromise is not really a dirty word when it brings about a workable solution to a tough problem. The Brown Administration ought to be able to present a more coordinated program than it has come up with thus far. Let's hope, in the months ahead, we will be able to hear more favorable aims and ideas from both California and Washington D. C.

Common sense should make it quite evident that "no growth" is not the name for this great state. We have no reason to "sit in our house by the side of the road and watch the rest of the world go by."

RALPH RYAN
President, Kern County
Special Districts Association

Can't we leave a few things alone?

Your mention of Governor Brown's "small is beautiful" philosophy seems to suggest an overlooked problem in our society.

We "average citizens" all thought that a perfect master plan had been worked out for the City of Sacramento, something that would slowly but inevitably take shape over a period of years, something we could depend on.

Now, we come to the traumatic realization that the concept of city planning may change overnight, every time a new administration takes over. We have had similar drastic changes in policy on other matters too, such as concepts involving mental health, freeway construction, etc.

On a national scale, we have candidates threatening to change the whole structure of government, as we know it. We average citizens worry a lot when politicians begin to tamper with things like welfare, unemployment compensation, Social Security, and all the other hard-won social benefits achieved slowly over the years.

Doesn't all this suggest a basic weakness in our society that needs to be compensated for? Can we never have concepts and structures of government that are secure, and "untouchable" going from one administration to another? There is a tremendous waste of time, energy, and money in switching from one concept to another, to say nothing of what it does to our nervous system.

Honestly, we citizens and taxpayers shudder and shake with insecurity and fright every time there is a change of administrations. How about suggesting to someone in government that we find a way to retain a few sacred cows; find a way of just leaving a few things alone?

EDWIN C. TILTON
Sacramento

(The following letter is in response to one printed in the December Journal by Roy Alper, director of the California Citizen Action Group.)

No 'cost allowance' for milk quotas

Every Grade "A" dairyman has earned a right to supply the fluid milk market through producing "drinking milk" for many years. The cost of production covers cows, feed, labor, insurance, etc. Dairymen producing Grade "A" milk and selling it for the "drinking-milk market" earned their share of this market through supplying the market. A quota or a share of the drinking-milk market is actually the "goodwill" that any business has earned through supplying the public with it's services.

This "goodwill" or quota is necessary for the market milk producers so they will produce the volume needed by consumers, which also assures a volume that makes for the most efficient production. If any milk producer procured an additional share of the market through purchase, that cost is not included in arriving at the selling price of Grade "A" Milk.

The following figures are taken from the report of the Cooperative Extension, University of California, Riverside. 1975: The total investment includes: 1. Cows, 33.3 percent. 2. Land, 35.5 percent. Sheds, Milkers, Tractors, Corrals, etc., 31.2 percent. No investment or dollar costs are allowed for quotas. Unless a dairyman is selling his milk at the 85 percent of production for the Grade "A" price, he is not recovering the cost of producing this milk. The 15 percent or any higher percentage sold as "manufacturing milk" is below cost of production. Therefore, a dairyman with less than 85 percent quota should acquire enough additional quota to reach 85 percent.

All quota transfers are subject to the regulations promulgated by the Director of Food and Agriculture.

HERMAN GRABOW
Legislative Representative
California State Grange

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BACK TO 'POLITICS AS USUAL'

What would Dymally be like as Governor of California?

By Ed Salzman

Hubert Humphrey was speculating about the immediate future of American politics in a bull session with a group of Washington reporters a few weeks ago. The Democrats' happy warrior was asked point blank whom he would select as his vice-presidential running mate should he win the Democratic presidential nomination in New York this July. Humphrey chose not to play it coy. "Jerry Brown or Jimmy Carter," he replied. Would Brown accept the vice-presidential nomination? Brown, said Humphrey, would hesitate precisely "one millisecond".

That story should get Californians to thinking about the prospect that young Governor Brown will be on the national Democratic ticket this year, and what that would mean for state government. If the Democrats win, a man named Mervyn Dymally will serve as governor for the last half of Brown's term. So it is not too soon to seek answers to such questions as: What kind of a man is Dymally? How does he compare with Brown? How well is he prepared for the state's highest office? What is he apt to do as Governor?

Dymally, like Humphrey, is not playing a coy game of politics these days. He has given the possibility of his ascension a great deal of thought. After all, why does anyone seek the office of lieutenant governor (or vice-president) if not to move one notch higher one day? Once elected, he must prepare for the eventuality that lightning will strike the politician one notch above him.

Brown and Dymally

Two politicians could hardly be any different than Brown and Dymally. Brown is ascetic, introverted (for a politician), philosophical. He would rather work than play, and takes pleasure in poking holes in political and governmental institutions. He came up the easy way, with name identification that helped him win one office after another. He answers questions with questions and rarely allows himself to become exposed to risk. Dymally, on the other hand is an old-fashioned glad-handing politician, a Black version of Pat Brown. He fought his way through the political thicket of the Watts section of Los Angeles to emerge as head of the nearest thing California has to a political machine. He is open about his activities, even when his answers are embarrassing, and he makes no bones about his political motivations. Under Dymally, California government would go back to politics as usual.

What would Dymally do as governor? The 49-year-old native of Trinidad and former teacher claims that he is superstitious and would, therefore, do nothing except think about the prospect until a Democratic ticket containing Brown were elected in November. Then he would begin converting himself from a relatively unknown lieutenant governor with a narrow political base to a leader of all the people. This he would do by touring the state to meet representatives of all elements of society — publishers, labor leaders, Chicanos, Blacks and grassroots organizations of every type. Then, he would return to Sacramento and — surprise — try to become a carbon copy of Jerry Brown.

Merv Dymally may not read the philosophical tomes that have become a trademark of Jerry Brown, but the Lieutenant Governor is anything but a political lightweight. He has not run up a string of successes for himself and his protégés by luck alone. He recognizes that his first job as governor would be to ward off potential opposition within the Democratic Party for the 1978 campaign, and he knows the best way to do that is to maintain the popular policies of his unorthodox predecessor. Dymally says flatly that the big difference between him and Brown would be in style, not in policy and philosophy.

The Lieutenant Governor says he would maintain Brown's appointment policy, which has brought a new breed of Californian into judgeships, commissions and the state bureaucracy (although he would appoint more

DYMALLY COURTING THE ASIAN VOTE
(and winning a rice-eating contest)

Photo courtesy of the Sacramento Union by Jerry Rainbolt

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women). Dymally knows that this will offend "some of my political-hack friends". As a member of the Legislature, Dymally was probably as wild a spender as could be found. He introduced bills that would cost billions. He rarely voted against major appropriations. As governor, Dymally says that he would be almost as tight with the dollar as Brown. "I'd be paying the bills," he explained. As a legislator, he was seeking goodies for his Watts constituents; as governor, he would be appealing to the middle-class White voter who swings elections in California. In education, Dymally would stress "a return to basics — the three R's."

Dymally does have some pet projects. He would like to see the state do more to stimulate jobs, and he says that, under him, the state would become more active in promoting funds from Washington — "outdoing Texas," he calls it. He would like to establish a system of free health clinics and expand child-care services. But politician Dymally knows that Governor Dymally would have to take advantage of the house that Jerry built.

Business dealings

Mervyn Dymally has been a controversial figure in California politics. He has a well-known feud with Mayor Tom Bradley of Los Angeles. "I have had a very cordial relationship with Tom Bradley personally," Dymally reported, "but it is the people around us who hate each other." There is an easy way for Dymally to cool that feud — give Bradley maximum support during the mayor's reelection campaign next year. Another problem may be more difficult to solve. Dymally has been depicted in the press — primarily through articles in the *Los Angeles Times* — as having used his political influence for personal gain. In one *Times* article about a year ago, Dymally was portrayed as possibly having mishandled foundation funds in running a program to develop minority political leaders. Dymally counterattacked with apparent effectiveness, for additional articles that were in preparation by *Times* reporters have yet to be published. Should Dymally become governor, however, all his business dealings would once again come under microscopic scrutiny.

Dymally recognizes that problem number one would be to solidify his political base. Unlike Brown, he would become extremely active in Democratic politics. "I would try to do the impossible," he said in a typically uninhibited interview in his Capitol office. "I would try to bring the various warring factions together and coordinate them." Dymally has been active in national Black politics, and he knows that in addition to his duties as Governor, he would have responsibilities as the top political spokesman of his race in the country. (Any view toward the presidency for himself is out of the question because of his birth outside the United States.)

Legislative rapport

Inside state government, Dymally would delegate power much more readily than Brown. He has always depended heavily on staff members and would continue to do so. The do-it-yourself system would halt. Dymally views as his greatest strength the fact that he knows how to deal with the Legislature. Politics-as-usual is Dymally's game, and that's the key to legislative responsiveness. "I would probably develop the closest executive-legislative relationship of any governor," he said. "There is a natural, built-in friendship. I know how the Legislature works." Dymally, incidentally, has great respect for the way Ronald Reagan controlled Republicans in the Legislature. They would talk rebellion in caucus, but once they were called into Reagan's office they knuckled under and voted the way he wanted them to, according to Dymally.

Dymally claims to know already pretty much who would make up his "kitchen cabinet". It would be his liberal Democratic colleagues in the Senate, Al Rodda on education, Nicholas Petris on taxation, Anthony Beilenson on health and welfare and James Mills on transportation, for example. But how well would this sit with his cabinet secretaries assigned responsibility in this field? Replied Dymally: "They might not like it, but they'd get their bills passed."

When Dymally was elected lieutenant governor, he said he wouldn't spend much time presiding over the Senate. Now he has changed his mind. "I miss those guys," he said. "I miss the action." But there are two other reasons: Brown has asked him at times to help round up votes in the Legislature and Dymally must maintain his contacts to do this kind of work. He also knows that missionary work today might help him personally at some time in the not-too-distant future.

Relations with Brown

The relationship between Brown and Dymally can hardly be considered warm. There is considerable contact at the staff level between key Brown aides and Dymally's top hand, Wally McGuire, a former San Francisco attorney and McGovern campaign worker in 1972. Both Brown and Dymally occasionally use the direct telephone line between their desks. Reports Gray Davis, Brown's chief of staff: "Whenever he wants to see the Governor, we are almost always able to bring that about in the same working day." But, Davis emphasizes, Brown's main task is working with the Legislature, not other constitutional officers, and it is in this area of lining up votes that Dymally has been most helpful.

Dymally is more open about discussing his relationship with the Governor. (Nobody will ever call Dymally an enigma.) "I've been trying to get the administration to enter into a marriage," he said. "Up to now, it's been sort of a flirtation." But shouldn't a Governor be briefing a lieutenant governor to prepare him for the eventuality that he might have to take over the corner office? "I try not to get too inquisitive," Dymally remarked, "for fear that I'll arouse a lot of paranoia. I try to keep track through the heads of agencies."

Under these "non-marital" conditions, Dymally is free to wheel around the state playing the game he knows best, traditional politics. He clicks off his allies — organized labor, civil servants, teachers, Chicanos, Blacks, law-enforcement organizations, Treasurer Jesse Unruh, San Francisco business magnates Cyril Magnin, Ben Swig and Walter Shorenstein, Contra Costa County Assemblymen Dan Boatwright and Jack Knox, the San Diego legislative delegation, his "young Turk" friends in the Senate. Where is he weakest? With the friends of Tom Bradley and with the California Democratic Council, the most liberal element of the Democratic party.

Dymally has so far remained aloof from Democratic presidential politics. He was astute enough to know that he would make more enemies than friends by picking a Jackson, a Carter, a Bayh or a Udall — especially when there was the possibility of a Brown. "My crystal ball doesn't tell me what's going to happen," he said. But, he added, he could envision an unorthodox convention scenario that would climax with the selection of Brown as the presidential nominee. And if traditionalism is in control, won't the nomination go to Humphrey? In that case it could be Brown for vice president.

Either way, Californians will have to start thinking about dropping "lieutenant" from the title in front of Mervyn M. Dymally.

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STATESMEN OR CAROUSERS?

The deceptive image of the state Legislature

By Ed Salzman

Properly, the event — a hotly contested basketball game between lawmakers and members of their staff — received little public notice. Only a few years ago, however, such a confrontation would hardly have been possible. A chug-a-lug contest would have been more likely. Nonetheless, the Legislature today has a dreadful public image. The citizenry, reading about drunk-driving arrests involving legislators (and former legislators) perhaps assumes that representatives in Sacramento are diddling instead of deliberating. The negative image is fed by news accounts of efforts by legislators to raise their own salaries, juggle holiday work weeks to avoid loss of their expense allowances and take pension benefits beyond the dream of most Californians. At the end of every session, stories describe how lawmakers who worked short work weeks for months are trying to push hundreds of bills through at the 11th hour.

All this, plus occasional investigative reporting pieces detailing suspected misdeeds of individual lawmakers, have given the public the impression that the current Legislature isn't trustworthy. But, viewed in historic perspective, the Legislature of today is far superior to its predecessors.

The 'saloon beat'

The Legislature is a victim of a dramatic change in the composition of another Sacramento institution, the Capitol press corps. A dozen or so years ago, the Legislature was made up of "good old boys" who came to Sacramento without their families for relatively short sessions. There wasn't a great deal of work during the day because most decisions were made by the few men who held power and there was little to do at night except party it up with all those lobbyists and their obliging expense accounts. Key members of the press corps traveled in this same circle, and it was not unusual for the big story of the day to originate from a barside chat at Frank Fat's or Dick Posey's. The reporters of that era could hardly be expected to write on the lifestyle of the legislators since they were a part of it themselves. (Even in the "good old days", however, some reporters shunned what became known as the "saloon beat".)

In recent years, the press corps has undergone rapid change. The last "saloon beat" reporter has retired. The new breed of Capitol journalist in Sacramento tends to maintain an arm's-length, adversary relationship with news sources. These men and women have delighted in writing articles about the fiscal peccadillos of politicians. They lack the historical perspective to compare this Legislature with those run by the "good old boys". As a result, the relatively clean Legislature of today gets a much worse press than the hard-drinking, playboy Legislature of the past.

Drunk-driving arrests

Why, then, all the drunk-driving arrests? There are two explanations. First, the string of arrests tells much more about what's happened to law enforcement than what's happened to the Legislature. In the old days, police would not arrest an inebriated lawmaker, but would escort him home. Today, officers seem to delight in arresting public officials. The second explanation involves the change in legislative lifestyle. Before 1967, many lawmakers stayed around town at night and, when the party was over, would either stagger to their hotel rooms and apartments or be driven home by their lobbyist hosts. Few lawmakers were obliged to take the wheel, so their exposure to arrest was far lower than today.

It is ironic that this Legislature, which has perhaps fewer alcoholics than any other in history, has come to be viewed as a bunch of drunks. It just so happens that death, reapportionment and other factors weeded out those half-dozen or so legislators of the 1973-74 session who had severe drinking problems. Legislators probably don't have drinking habits much different than those of the public at large (especially now that the drinks aren't free). The rec-

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reational habits of lawmakers have changed dramatically. It used to be wine, women and cards. Now it is tennis, women and basketball.

The Unruh era

The Legislature changed for two basic reasons: The efforts of Jesse Unruh, then speaker of the Assembly, to upgrade the Legislature, and the enactment of a ballot proposition in 1966 effectively creating a full-time Legislature. The 1966 measure sounded the death knell of the "good-old-boy" Legislature, brought families to Sacramento and created an atmosphere more conducive to work than play. [See "Most legislators live in Sacramento," *CJ*, April 1973.] Unruh can hardly take credit for changing the drinking habits of his colleagues, for the former speaker is hardly a teetotaler. But he launched a successful campaign to reshape not only the California Legislature but houses of representatives throughout the nation. Before the Unruh era, governors usually solved state problems and often commanded the Legislature as well. Unruh brought bright, young people into the legislative branch to conduct independent research and give the Legislature a brain of its own. (This capacity to develop programs was a source of friction between Unruh and fellow Democrat, then-Governor Pat Brown.)

Unruh was a forerunner of a new breed of legislative leader, concerned as much about solving problems as about amassing power. The current leader of the Senate, James Mills, is a former Unruh aide, and one of the common criticisms voiced against Mills is that he spends too much time trying to solve the transportation problems of the state and not enough time fashioning his Democratic colleagues into a more cohesive unit. Assembly Speaker Leo T. McCarthy also often sets his hand to trying to work out the details of legislation.

Change in the Senate

During the early 1960s, Unruh encountered a great deal of resistance in the Senate to the changes he sought, and this resistance was wedded to the "good-old-boy" philosophy. During those days, the key figure in the Senate was the late George Miller Jr., who hated Unruh and tried his best to curb the Speaker's rising influence. Only since Mills took over has the Senate staff begun to grow in size and skill to approach the Assembly's.

Probably the most significant event in the recent history of the Senate came on May 14, 1969, when Republican Howard Way, a member of the so-called Young Turks, ousted "old guard" Democrat Hugh M. Burns as president pro tempore. The "old guard" made a brief comback the next year, when Republican Jack Schrade defeated Way, but Mills took over in 1971 and has successfully maintained his position since then. (Miller's death January 1, 1969, left his ally Burns more open to attack. Miller had managed to keep liberal Democrats in line by working with them on some key measures. With Miller gone, there was no one strong enough to restrain most of the liberals from joining Way to oust Burns.)

Use of staff

The house that Jesse built has undergone an evolution in the past few years. During the Unruh era, some staff members became more powerful than the legislators who theoretically employed them. The staff members developed bills, arranged hearings, lined up the votes and often told their bosses what to say during floor debate. Relatively few members delved deeply into legislative detail before their job was made full time. Now, more and more lawmakers have become experts in various areas and come up with their own ideas. They actually direct staff work in some instances, line up their own votes, make most major decisions themselves. The staff is still large and powerful, but no longer the dominant force it once was.

This changing role of staff is important in another respect. Those familiar with how Congress operates expressed the fear that staff in Sacramento would become so powerful that it would become a buffer between the citizens and their elected representatives. Some lobbyists claim that it is virtually impossible to meet personally with some congressmen and that all messages pass through staff members. At one time, there were indications that such a procedure would develop here, but it hasn't yet.

Political reform

Some claim that the Political Reform Act of 1974 will isolate legislators from the public because lobbyists have lost the entrée to lawmakers that they used to get over a meal or a drink. Over the last decade, however, the once-hard bond between lobbyists and legislators was already breaking down. Proposition 9 reflected the changes well under way in Sacramento and took them to a logical conclusion (although most lawmakers privately say that the law goes too far in limiting the amount a lobbyist can spend on a lawmaker to $10 a month).

Legislators may look like crass money-grabbers to the public because of their unfavorable press. But the Political Reform Act, plus inflation, did leave lawmakers worse off than they were a few years ago. While a howl went up last year when the Legislature voted itself a raise from $21,120 to $23,232 (effective this December), that increase doesn't match the increased cost of living. Legislators are most vulnerable in the field of fringe benefits, and the Assembly has created a commission that McCarthy hopes will recommend a higher salary and lower fringe benefits to minimize the public's criticism.

Price of perks

It is true that the lawmakers' pension plan is lavish, that they receive $30 a day in expenses even though most of them really reside in Sacramento, and that they get state-leased cars, unlimited use of gasoline and telephone credit cards. McCarthy's problem, eventually, will be to sell the public on a much higher salary — perhaps around $40,000 — in exchange for these benefits.

The key question is how much the public is getting for its $40,000 or $50,000 a year it now provides in salary and fringe benefits for each lawmaker. The caliber of the

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Legislature cannot be judged against some objective standard because there is probably no better body, at least in this country, with which to compare it. But the current Legislature can be rated against *its* predecessors and, once it is, high marks must be accorded. Anyone can quarrel with the product of any session, but other important factors exist — such as the caliber of the legislators themselves, how hard they work and how prevalent is corruption.

At one time, the Legislature was highly corrupt. One of the first lessons in California political history involves the rule of the Legislature by super-lobbyist Artie Samish. After Samish departed Sacramento on an income-tax conviction, no single advocate took his place, although the influence of big-business lobbyists remained strong. In a body of 120 politicians, some members will probably be on the take. No one knows for sure how many lawmakers extracted illegal payments in exchange for votes, but those who have watched the Legislature over a long period of time say that the numbers were fairly high before the changes in the last decade and that corruption is nowhere as common today.

A dozen years ago, a few legislators could unhesitatingly be classified as boobs. Returned to Sacramento year after year by lulled constituents, they disgraced the democratic system. In recent years, most of the boobs have departed, replaced by men and women of far broader education and greater intellectual capacity. Today's legislators know more about the problems of California and the intricacies of bills than did their predecessors. The system is somewhat more democratic. The informational resources available to each legislator have improved enormously.

The legislator of today tends to take himself or herself a bit too seriously, perhaps, and worries a great deal about image. The counterpart of 1960 may have had a lot more fun — and a lot less concern for what the folks back home thought about extracurricular activities in far-off Sacramento.

The rewards of service in Sacramento

BY GAIL SCHONTZLER

Under the California Constitution, state legislators have the power to set their own salaries. But now they are looking for ways to get rid of this troublesome privilege. Pay-raise votes like last September's, when legislators gave themselves a 10 percent increase, are inevitably accompanied by headlines and criticism lawmakers prefer to avoid. The Senate in September passed a bill that would hand over the pay-setting responsibility to the state Personnel Board. And in November the Assembly created a 15-member Public Employees Compensation Commission to recommend changes in the way salaries are set for judges, constitutional officers and legislators. The commission's report is due this month.

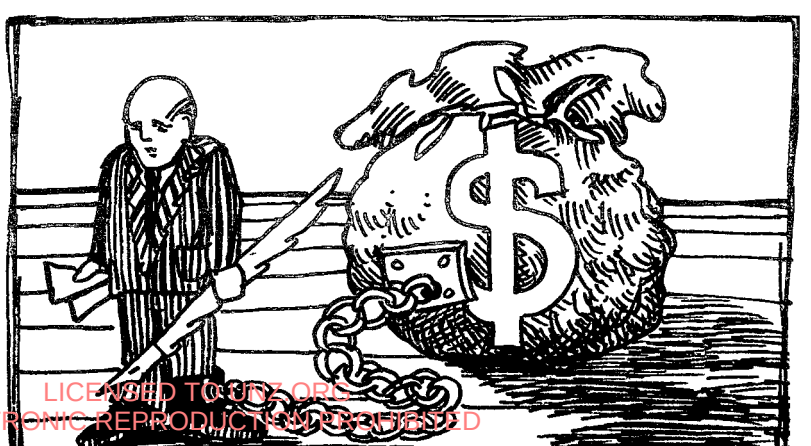
The commission is charged with examining both "compensation and benefits", including expense money and retirement benefits, according to Walter Quinn, executive secretary. "I'm sure that with the diversity of the members, some will want to find out what the whole package is worth," Quinn said. But this may not be easy.

Salary figures are misleading, because on top of their regular pay lawmakers receive such benefits as substantial pension rights, $30 a day in tax-free expense money — though this is being challenged by the Internal Revenue Service, at least its tax-free aspect — travel allowances, leased cars and unlimited use of telephone and gasoline credit cards. It is hard to translate these tax-free benefits into taxable dollars. One reason is that until this year the Legislature kept secret the amounts spent by individual members. Another is that the total worth of perquisites for each member depends on how much outside income each makes, since the higher the tax bracket, the greater the relative value of any tax-free compensation. Depending on such variables, the total annual value of the salary plus fringe benefits ranges from $28,000 to more than $40,000.

What price fringes?

Assembly Speaker Leo McCarthy has said that he would give up all fringe benefits, except a travel allowance to enable Southern California legislators to commute to Sacramento, in exchange for a "decent salary", and he suggested earlier that such a salary might be about double the present $21,120. Though fringes may or may not be worth quite as much as a doubled salary, clearly they will not be relinquished without at least an equivalent boost in pay.

In arguing last fall for the pay raise, Speaker McCarthy said that many members, especially those putting families through college, were "pressed economically" because of the decision to go into public service rather than stay in business or law. Treasurer Jesse Unruh and others warned that if Californians want clean government they will have to pay for it. Government salaries, they said, must be competitive if qualified persons not independently wealthy are to be attracted to public life. Lawmakers pointed out that their pay had not increased as fast as the pay of other state employees and that many of their own staff earn higher salaries. The raise will cost about a



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quarter million dollars out of a $12.6 billion budget (as proposed by Governor Brown).

Lawmakers did not advertise the fact that at $21,120, their salaries rank second only to those paid to New York's legislators, $23,500. That gap will be virtually closed when the raise to $23,232 takes effect in December.

Last September's raise was handled more openly than has been the case with such bills in the past. Traditionally, raises have been rushed through at the end of session during the flood of last-minute bills. The unusual step was taken, however, of having the bill sponsored by the Senate Rules Committee. Apparently, no individual lawmaker wanted to take credit for increasing the legislators' pay when the average Californian makes about $10,000 a year and 10 percent of the state's workforce makes nothing at all.

In any case, the salary is only part of what is today called the total compensation package granted to each California legislator. What follows is a survey of the other main elements it contains.

Pensions

A less-publicized cost to taxpayers than the salary increase, but probably more expensive in the long run, is the legislators' pension system, one of only 13 special retirement plans for state legislators. The benefits are substantially more impressive than those received by other state employees. Two key facts illustrate this contrast:

- *Lawmakers have contributed only 6 percent of the benefits paid out through their plan between 1947 and 1974, while the rest of the state's employees and local public workers paid 29 percent.*
- *The legislative retirement system had an "unfunded liability" in 1973 of $19 million – money that it could not pay if it had had to and presumably would have to have drawn from the state general fund. (No actuarial survey has been done since 1973.)*
- *The public-employee system is considered financially sound, despite the fact that, until recently, it had the extra burden of paying $30,000 every year to administer the legislator's retirement system.*

The payoff

In spite of the financial problems with the legislative retirement plan, it produces bigger pension checks and broader coverage than does the public-employee system. State pension experts have shown that, all else being equal, legislators get pensions twice as large as those of other state employees. A lawmaker retiring this year at age 60 with 10 years' service (the average for those now in office) would receive a monthly pension check of just under $700, while a state employee retiring at age 60 with the same number of years in would have to have been earning twice as much at retirement to receive a $700 monthly pension.

The lawmakers' system is also more generous in providing benefits to surviving spouses and relatives. Though recent changes provide some money to survivors of state workers automatically, a state employee still faces a hard choice: Either take the maximum pension while alive, or accept a smaller check now so that the eventual survivors will get more per month. The more employees sacrifice

in their own pensions, therefore, the more money will go to their spouses and children. The same is true for the constitutional officers, who are also members of the Legislative Retirement System. But legislators do not have to make that choice. No sacrifice is required.

Also, while state employees' pensions include a 2 percent annual cost-of-living boost, the legislators' pensions keep pace with inflation through automatic cost-of-living increases based upon the state Consumer Price Index, which has topped 10 percent in the last two years.

And, while lawmakers put 8 percent of their salaries into their retirement fund (4 percent for those elected before 1972), state employees contribute only 5 percent (down from the 7 percent they paid until July 1974). Still, most pensions come to only 30 to 50 percent of an employee's salary, with Social Security checks bringing in another 10 percent; but a legislator with 20 years' service would get two-thirds of the final salary.

Per-diem expense

The clearest example of a fringe benefit that is actually a hidden form of income for legislators is their per diem. Per diem stems from the time when the Legislature met only part-time, and it was offered then to offset the costs of living in hotels and eating out. Members were paid only $6,000 annually and lived most of the year in their home districts; today, serving in Sacramento is a year-round, full-time job with a full-time salary, and most lawmakers keep up a residence in their districts but live in Sacramento with their families — while continuing to draw what was originally a living-away-from-home allowance. (According to Ted Mandalla of the controller's offifice, this allowance averaged about $5,733 last year.)

This so-called per diem is actually worth several thousand dollars more than this in taxable income. Those members whose only income is their state salary fall in the 32 percent federal income-tax bracket; for them, per diem is worth more than $7,500 a year. For those whose income level with outside businesses or law practices put them in the 50 percent tax bracket, per diem is worth $12,000 in taxable income.

Members are paid per diem seven days a week, including Saturdays, Sundays and even Fridays when there are no sessions. The allowance is given whether a member is working or playing golf. The allowances are not paid, however, when the Legislature fails to meet for more than three days in a row. Each member stands to lose $120, therefore, whenever a four-day holiday comes around. This has inspired lawmakers to work on such state holidays as Washington's Birthday. (They met for 37 minutes to collect the per diem on January 26, 1973, a day of mourning for Lyndon Johnson.)

The latest threat to per diem came in May 1975, when the Sixth Federal Circuit Court of Appeal ruled, in a Michigan case, that legislative per diem was taxable income. (The IRS has been trying for a year to get state Controller Ken Cory to declare the allowance to be part of members' gross income. It could then be deducted as a "business reimbursement", but only by those members who could prove that Sacramento was not their home and that they needed the money to offset the expense of living away. Legislators have contributed $100

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each to pay for a lawyer to fight the IRS on this.)

Lawmakers also get per diem and reimbursements for travel. In recent years, the Senate and Assembly rules committees have given official approval of fact-finding trips that ranged from South America to Cape Cod, from the study of medical schools to gambling. In the fiscal year ending last June, the Legislature spent over $375,000 for travel, down considerably from the previous year's half a million dollars.

Phones, Cars, Gas

Though not all lawmakers take trips, all make phone calls. In 1974 the Legislature spent $1.3 million on calls and in 1975 more than $950,000. This averages $10,000 per member in the last two years for phones. One-third to one-half of this was spent by members' district offices. There is no regulation of lawmakers' phone use and, until this year, no public disclosure of the amount spent by each member or the destinations of the calls.

Each legislator also gets up to $225 a month, or $2,700 a year, to lease a car. Members can choose small economy cars that get good gas mileage and cost the taxpayers less than $225; last year only seven senators and 13 Assembly members did so. The rest used the full allowance and some chipped in some of their own money to be able to drive more expensive models. Sixteen senators and as many Assembly members picked Cadillacs, Lincolns and Ford LTDs. Car-leasing started in 1966, when it became cheaper than reimbursing members for mileage.

The public still pays gasoline bills. Last year, gasoline bills averaged $1,000 per member. The total for car leases and gas the year before exceeded $560,000.

Checking

The rules committees of both houses, responsible for these perquisites, do not exercise control over their use or the amounts legislators spend. Cases of self-policing are very rare. There is no formal code of ethics or guidelines governing use of perquisites. The Assembly Rules Committee's consultant, Fred Taugher, said that the assumption is that legislators use their cars, phones and gasoline credit cards only for working on bills: "We can control some expenditures in terms of purchasing," he said, "but it's hard to control expenditures after the fact (such as gas and phone bills). I or the Rules Committee are not in the position to tell a member his phone bill is too high. He might have needed it to work on legislation."

The number of newsletters each Assembly member can send to constituents during a two-year term has been cut back to five, from six, to save money. (Newsletters are the single most expensive legislative perquisite, costing $2.2 million last year and $2.8 the year before — more than $20,000 per member a year over the last two years.)

Open records

In October, Governor Brown signed the Legislative Open Records Act. It should help the public hold their representatives accountable for the money spent on perquisites. The law will require them to report every November how much they spend a year on phone calls, gasoline, postage, newsletters and per diem. (Until now, such records have been scattered throughout the offices of the executive officers of each house's rules committee, and required extraordinary hunting and perseverance to produce figures, which were often incomplete or contradictory.)

The Open Records Act will not disclose detailed information, however, on phone and gasoline bills. These exceptions will protect from public scrutiny two of the most easily abused fringe benefits. The public will be able to learn, for instance, that an Assembly member spent $25,000 on phone calls, but not whether those calls were made to Washington, Las Vegas or an interest group, or whether most occurred during an election campaign. Johnny Collins, aide to Assemblyman Leon Ralph, author of the Open Records bill, said that these exceptions were included to protect members' privacy and prevent "nuts" from learning members' driving habits and "blowing their brains out."

The question

Information available through the Open Records Act may help the commission now evaluating legislators' pay decide how much perquisites are worth and whether they should be considered part of lawmakers' compensation. It should help them decide whether all fringe benefits should be abolished and replaced by a heftier salary, as suggested by Speaker McCarthy, or whether a permanent board should be established to set salaries, as some states have done.

Any changes proposed by the commission would require changes in the California Constitution and, therefore, would have to be approved by the voters. It is unlikely that the public would approve any scheme to double lawmakers' compensation, even if some may already be getting that amount with fringe benefits. A pay-setting commission would have a better chance of passage and would solve the legislators' problem of having to vote themselves a raise. But lawmakers should not think that this would end their pay-raise headaches.

Michigan voters approved such a commission in 1968 and, though it approved $2,000 and $2,500 salary boosts the first two times it met, in 1972 it balked and voted no raise.

The author, a graduate student in journalism at the University of California in Berkeley, wrote "The touchy-feely legislator" in the December Journal.

Roster additions and corrections

The following additions and corrections should be noted for the **California Journal Roster and Government Guide,** included in last month's issue:

Add under Assembly standing committees, page 10:

Water (8D,3R):

Chairman Mobley (R); Vice Chairman Chimbole (D); Badham (R); Boatwright (D); Cline (R); Davis (D); Kapiloff (D); Keene (D); Perino (D); Thurman (D); Warren (D).

Assemblyman Boatwright is the new chairman of the Ways and Means Committee, succeeding Foran. And Assemblyman Brown replaces Boatwright as a chairman of the Revenue and Taxation Committee. All are Democrats.

Under useful numbers on page 11, the correct number for the Assembly Office of Research is 445-3490.

Under the executive branch, page 3, add:

California Postsecondary Education Commission
1020 12th St., Sacramento 95814
(916) 445-7933

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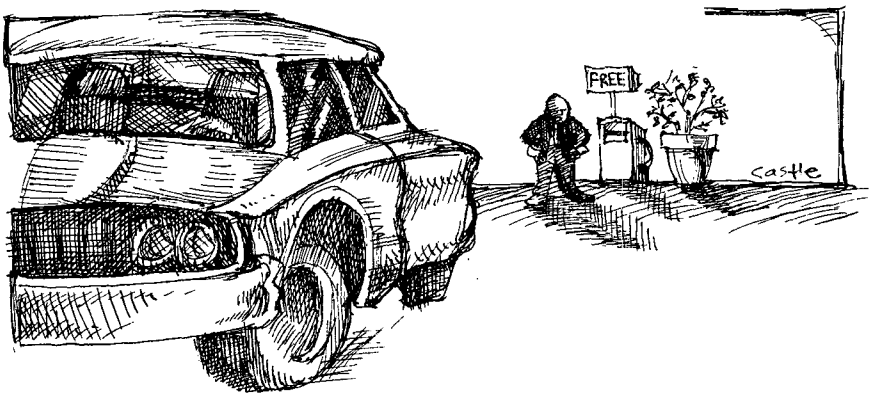
The taxpayers' gifts to members of Congress

By Gil Bailey

California's 43 members of the House of Representatives and one member of the Senate have a huge head start over their challengers in this election year — a head start financed by the public to the tune of half a million dollars each [see box]. Americans for Democratic Action estimated the benefits accruing to incumbency at $488,505. Most of the money is appropriated for legitimate congressional business, of course, and much of it is well spent by California's delegation. But by its very lavishness incumbents have increased the difficulty of being voted out of Congress. The new limitations on campaign spending — also known in Washington as "The Incumbents' Protection Bill" — have eliminated one of the few ploys left to challengers, that of out-spending the incumbent.

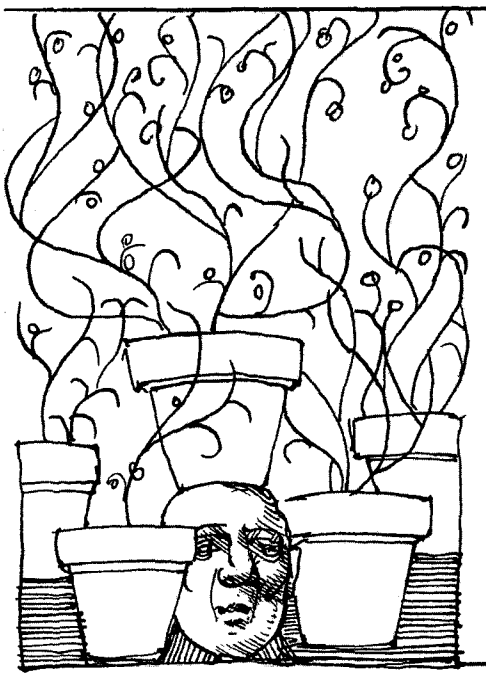
In 1968, 98.8 percent of the House incumbents and 83.2 percent of the Senate's incumbents were re-elected. In 1970, the figures were 96.9 and 79.3; in 1972, 96.6 and 80; in 1974, 89.6 and 92. California Senator Alan Cranston won re-election easily in 1974 and only two incumbent California House members were defeated, and both of them were in redistricted areas.



There are some arguments for the huge staffs and allowances. "I would imagine that we receive something in the neighborhood of 1,000 letters a week, and we certainly try to answer all of those which come from the First Congressional District," said Representative Harold T. Johnson, a Democrat from Roseville. "While the legislative mail probably is heavier than the casework in the number of letters received, our workload in the office is such that I would imagine that approximately one-half to two-thirds of our efforts are directed towards casework." Johnson said that he has never needed to draw upon the full number of employees available to the office, but he represents a relatively quiet mountain district.

Casework is one of the major reasons for congressional staff. "There is obviously a need for an ombudsman service at the federal level, and as the public learns that a member of Congress is providing that service an ever-increasing number of people make use of it," explained Representative George Miller, a Democrat from the delta town of Antioch. Mil-

The author, a Washington correspondent for the Ridder Newspapers, is a frequent contributor to the Journal.



So you've been sent to Congress . . .

The combined cost of congressional offices and support services totals more than $500,000 for each member of the House. What follows is a partial listing of these benefits.

Personal salary, $44,625 per year.
A personal staff of 18, paid up to $227,220.
Four furnished offices, one in Washington, three in the district.
Twenty-six round trips home plus six such staff trips, first-class air fare authorized.
A stationery allowance of $6,500, which may be used for personal expenses.
Free mail and **telephone services,** including up to 480,000 "public document" envelopes per year.
Seventy-one subscriptions to *Congressional Record*.
Two Thousand wall calendars.
Four hundred *Agricultural Yearbooks*.
Five hundred copies each of *Our Flag, The Declaration of Independence* and *The Constitution of the United States*.
Use of congressional broadcast studios at reduced rates.
An unlimited number of free potted plants.

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ler, a freshman in Congress, said his case load averages about 100 a week, with queries concerning Social Security and the Veterans Administration, among other governmental agencies. Senator John Tunney's office averages 1,300 cases a month and 18,000 letters a week, and his office has a reputation for being slow to respond, which may in part be due to the number of inquiries. While Senate staff is apportioned on the basis of population, an imbalance remains between the resources available to, say, Nevada's two senators with something like half a million constituents and California's Cranston and Tunney, who represent more than 20 million. And some cases are very complex and time-consuming. For example, Representative Norman Mineta of San Jose, also a freshman Democrat, kept members of his staff busy for three months on a case involving a constituent married to a Vietnamese woman. Mineta's office has also been working on a case involving a Gilroy woman imprisoned in Argentina for more than a year on political charges. And congressional staffers serve other functions, too, such as keeping the members informed on the thousands of questions they must vote on each year.

Lavish execution

The need for staff, communications, and even travel is clear enough, but less justified is the lavishness with which Congress has taken care of its legitimate needs and the possibility of using the perquisites of office for personal gain. "More self-serving measures to benefit members of Congress have been approved during the past two years than during any comparable period in our history," complains Representative Alphonzo Bell, a Los Angeles Republican who voted for some of the measures. (He also is using his House seat as a springboard to a U.S. Senate campaign, including flying first class back and forth to California on the public, just as did Tunney when he was in the House.) "In the last 20 years, while the population of this country was increasing by 30.5 percent and inflation was eroding the value of the dollar by 83.4 percent, the cost of running Congress has increased by about 560 percent," Bell added.

The Bell press release from which these comments were drawn illustrates another part of the problem involving the powers of incumbency. It is headed: "From the Office of Congressman Alphonzo Bell, R-Los Angeles. Contact: John Gingles, 202-225-6451." The telephone number is that of Bell's congressional office in Washington, and Bell is an announced candidate for his party's nomination to challenge Senator Tunney. The point is this: Are staff members and the allowances used for partisan political purposes? The House and Senate set their own rules on this subject, as well as their own judging, so the legal question is probably moot. In any case, the press secretary, whatever the actual title, is one of those staff members most subject to being used for political purposes since it is difficult, if not impossible, to draw a line between keeping constituents informed and tooting one's own political horn.

The conflict-of-interest problem, strange as it may appear, may be greatest in relatively uncontested elections. In hotly contested elections campaign staffs are set up and paid with political funds. Tunney already has one. Cranston set up one early in 1974. Representative Pete McCloskey of Menlo Park, who has faced tough and expensive challenges in Republican primaries, has had such a staff. But in the relatively uncontested races when the incumbents run the campaigns out of their own pockets, the congressional staff sets up scheduling, gets the airplane tickets, does the driving, writes the press releases and prepares the speeches. Meantime, the challenger tries to finance use of a duplicating machine. And some worthy challengers, looking at the tax-paid advantages of the incumbent, just don't run.

What statistics say about lawmaker quality

By Arnie Braafladt

The arrest of half a dozen state legislators for drunk driving in 1975 surprised few Californians, despite the oft-repeated assertion that higher salaries mean "better" officials. Accustomed to unfavorable reports on office-holders, many citizens were convinced that the performance of lawmakers had not improved at all in measure to their pay. But the caliber of the state's legislators *has*, in fact, been improving over the years — at least in terms of education.

A study of the educational and occupational backgrounds of 1959 and 1975 California legislators shows that more than 80 percent of the 1975 crop had finished at least four years of college, and 60.8 percent had completed at least five. In contrast, 66 percent of 1959's lawmakers had completed at least four years of college and about 45 percent five or more. There has also been a sharp decline in the number of office-holders who did not attend college. While 13.4 percent of the 1959 lawmakers had earned only a high-school diploma, that was true of only five of 1975's (4.2 percent).

The study also showed:

- *An increase in the proportion of lawmakers who held professional or technical jobs at the time of their election. (Slightly less than half of the 1959 group had such occupations, compared with 56.7 percent in 1975.)*
- *A drop from 14.3 percent to 6.7 percent in the insurance and real estate dominated sales-work job classification.*
- *A similar decline in the proportion in farming or ranching (11.8 percent in 1959, 5.8 percent in 1975).*
- *Sixty percent of the Democrats with professional or technical occupational backgrounds in both years.*
- *Republicans leading both years in the manager and administrator classification (predominantly businessmen), sales work and farming or ranching.*
- *A sharp gain in the level of GOP educational attainment since 1959. (Nearly 33 percent more Republicans*

The author analyzed the backgrounds of California lawmakers as a Coro Foundation fellow. He wrote "Who's got what among state officials" in the May 1975 Journal.

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reported four-or-more years of college in 1975 than had in 1959.)

• *Seventy percent of 1975's senators and 50 percent of the Assembly members holding professional or technical jobs at the time of their elections.*

The figures also revealed that, while 15 percent of both years' state senators cited jobs as managers or administrators, the proportion of Assembly members holding such positions was 35 percent in 1975 compared with 26 percent in 1959. The number of lawmakers formerly involved in sales jobs and ranching or farming dropped by about one-half in the two houses, with a greater proportion of both years' Assembly members citing sales jobs. Senators proportionately led both years in farming or ranching.

Almost 60 percent of the college-educated lawmakers did their undergraduate work at public institutions — nearly half of them in California (up from 42.6 percent in 1959). Of those who went to law school:

• *About 40 percent of both years' crops attended public law schools.*

• *About 57 percent studied at law schools having high entrance requirements.*

• *Relatively few were graduates of private law schools with high entrance requirements.*

As for the occupations of legislators at the time of election:

• *Forty-two percent of those in the professional and technical classification were lawyers (35 percent in 1959).*

• *The second largest occupational group, managers and administrators, comprised 28.3 percent of the 1975 lawmakers (22.7 percent in 1959).*

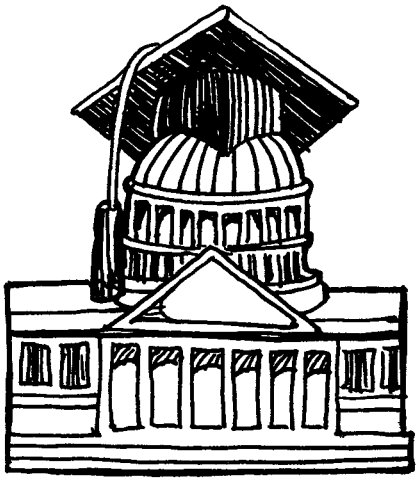
Party affiliation

When party affiliation is considered, the statistics show that Democratic lawmakers, in the aggregate, have more formal education than their Republican colleagues. A majority of Democrats had advanced degrees (primarily in law), while fewer than half the GOP legislators fell in that category. Nearly 69 percent of 1975's Democrats reported five years or more of higher education and only 40 percent of the Republicans. (In 1959, the figures were 57.5 percent for the Democrats and 26 percent for Republicans.)

The occupational data reveals that nearly two-thirds of the 1975 Democrats had professional or technical occupations, up from 61.6 percent in 1959. The GOP figures were 40 percent in 1975 and 30.4 percent in 1959.

Thirty-one of 45 Democratic professional or technical workers in 1959 were attorneys — 42.5 percent of that year's Democratic legislators; 39 of 52 Democrats fell in that classification in 1975. In comparison, only 11 of 46 Republicans (23.9 percent) in the 1959 Legislature were attorneys and 11 of 40 (27.5 percent) of last year's GOP lawmakers. Democratic attorneys in the Legislature proportionally outnumbered Republican lawyers nearly two-to-one both years.

Of 1959's Democratic office-holders, 16.4 percent had been managers or administrators, while 26.3 percent of 1975's had such occupations. For Republicans, 32.6 percent fell in the management-administrative group in 1959 and 32.5 percent in 1975. Greater percentages of Republicans than Democrats in both legislatures cited sales work occupations. Nearly 20 percent of 1959's and 12.5 percent of 1975's Republicans were in the



sales-work occupational category. In contrast, only 11 percent of Democrats in the 1959 Legislature reported sales jobs, and only 3.8 percent in 1975.

Only 1.3 percent of the Democrats were in farming or ranching in 1975, compared with 15 percent of the Republicans. In 1959, 11 percent of Democrats and 13 percent of Republicans cited such occupations.

The two houses

The Senate and Assembly were comparable in both 1959 and 1975 in years of schooling. A comparison of colleges attended as undergraduates shows:

• *About 56 percent of the college-educated Senate and Assembly members studied at public institutions, while in 1975 almost 62 percent of college alumni in the Assembly attended public institutions as compared to 48.5 percent of the senators.*

• *Roughly 33 percent of the college alumni in both houses in 1959 attended private colleges in California, while in 1975 the figure was 36 percent of senators and 25 percent of Assembly members.*

The senator-attorney is more frequently educated at law schools with high entrance requirements than the Assembly counterpart: 80 percent of the 1959 senators with law degrees studied at such a law school, against only 40 percent of the Assembly members with law degrees; in 1975 respective figures were about 52 percent for the lower house and 64 percent for the upper house. As for those who attended private law schools with high entrance requirements, the 1959 Senate claimed 25 percent compared to 12.5 percent for the Assembly. In 1975, the figures were 27.3 percent for the Senate and 6.9 for the Assembly.

Occupational differences

Occupational differences between the two houses were more pronounced in 1975's professional and technical classification than in 1959:

• *Seventy percent of 1975's senators listed professional or technical occupations, including 21 attorneys, while 53.9 percent did so in 1959. (There were 17 attorneys in the 1959 Senate.)*

• *Fifty percent of 1975's Assembly members listed a professional or technical occupation, including 29 lawyers, while in 1959 the figure was 47.5 percent, with 25 attorneys.*

While 10.3 percent of 1959's senators indicated that they held sales jobs at the time of their election, only 5 percent in 1975 cited a sales background. The proportion declined from 16.3 percent of 1959's Assembly members to 7.5 percent last year.

About half the number of lawmakers had backgrounds in farming or ranching in 1975 as in 1959. (Reapportionment, which left fewer seats for rural areas, probably contributed to this.) More than 15 percent of 1959's senators reported farming or ranching jobs, while only 7.5 percent did so in 1975. Where 10 percent of 1959's Assembly members listed an agricultural or ranching occupation, only about 5 percent of the 1975's lower house did so.

Finally, percentages of office-holders who were retired at the time of election have also declined, from three upper-house solons (7.7 percent) and four Assembly members (5 percent) in 1959, to two senators (5 percent) and one lower-house member (1.3 percent) in 1975. In short, some things have changed in Sacramento.

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FIRST WOMAN AGENCY SECRETARY

Rose Bird, criminal lawyer, as the Compleat Bureaucrat

By CARLA LAZZARESCHI

Promptly at the appointed hour Rose Bird, the first woman to head a state agency, walked out of her corner office into the lobby of the Agriculture and Services Agency. She introduced herself with a smile and a handshake. "Do you want coffee?" she asked, and led me to the coffee room, a sunny nook where her staff members get their coffee and on some days pick up goodies her mother bakes for the entire office. (Later, I found out that Bird doesn't drink coffee, tea or, for that matter, alcoholic beverages.) As we walked toward her office, she asked if I were doing a story on all six members of Governor Brown's cabinet. "No," I replied, "the story is just on you." "Oh no," she said, with a surprised and slightly nervous laugh. "I don't want a story on me. I'm not worth a story."

Rose Bird wasn't motivated by false modesty or a need to hide anything. She simply felt that a story about her would be premature. "People in politics should be written about for their accomplishments, not their personalities," she told me several times. "Otherwise, politicians are treated as movie stars, not as public servants. And once the pop-star image gets into politics, it debases the political process. It tends to separate the leaders from the people and it makes the politicians more interested in personal things than in the real issues."

Consummate servant

Bird is 39, a tall woman who wears her long blond hair in a bun fastened with a ribbon to match her outfit — generally a pants suit — and seldom wears makeup. She lives with her mother and has changed her habits little since coming to Sacramento. She does her own shopping, and refuses to use the state car normally provided for the personal use of agency secretaries. "You shouldn't change your life much when you come to government because you always have to return," she said. "You should keep up with the price of butter just like the rest of them and you should wait in line for the State Fair just like everyone else. You shouldn't become remote from the citizens because the beauty of democracy is that anybody can sit in my position."

Her reluctance to see a story about herself in print is a good indication of how she views her job as secretary of the Agriculture and Services Agency: to be the consummate, faceless public servant. She sees her job as an adviser to the Governor and as the person responsible for the smooth functioning of her agency's ten departments and boards (a catch-all assortment including agriculture, two state retirement systems, the state fire marshal, the Department of Consumer Affairs, the state tax collector's office and the state's housekeeping agency, the Department of General Services, which rents the Governor his apartment). Though she has ideas and goals, she is loath to push or even reveal those goals and ideas until the time is right. She prefers to work quietly behind the scenes.

Road to Sacramento

Bird proudly remembers her stint as chauffeur and performer of odd jobs for Jerry Brown's campaign committee in San Mateo County in the fall of 1974. Others add that, despite her seemingly lowly role, she actually put the local campaign together. She didn't do the campaign work, she said, to land a job in the administration. In fact, she added, she never expected to end up in Sacramento. But shortly after the election the Governor-elect asked her to join the transition team helping him prepare to succeed Ronald Reagan.

Her approach to her work is not unlike Brown's. She is deliberate, analytical and likes to be in control at all times. And what she is doing with her agency is just about what the Governor is doing with all of state government — slowing it down and demanding that an orderly process, based on thorough study and controlled from the top, guide all decision-making. But although many aides and colleagues acknowledge that she exemplifies the Governor's caution, conservatism and even demand for privacy,

The author has written frequently for the Journal, *most recently "The 'Quad Squad' at Rehab," last month.*

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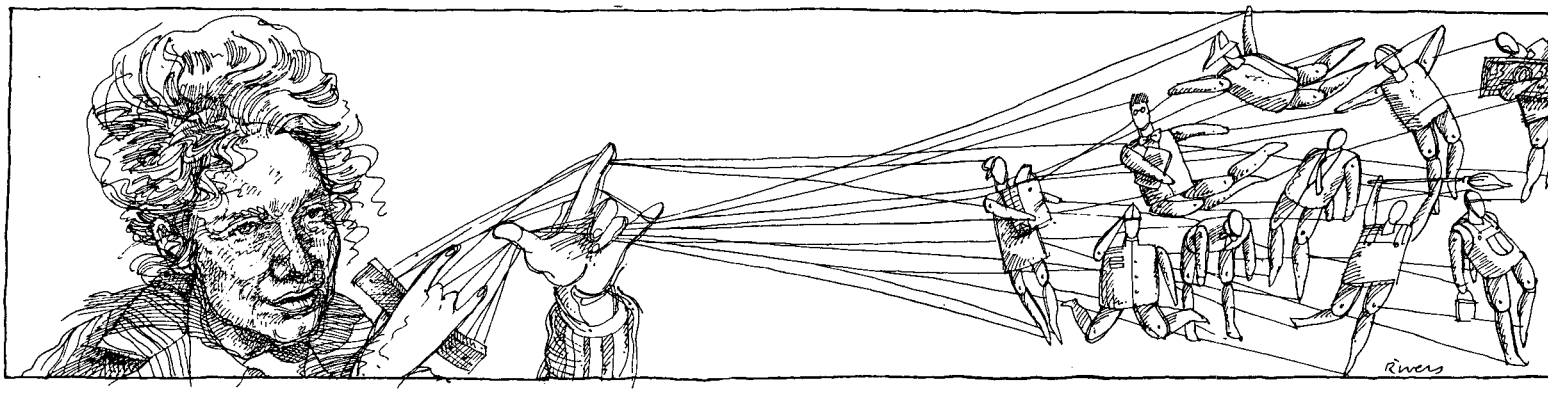

they note that she lacks his willingness to use his position to sway public opinion and also his ability to tolerate dissent.

'Super bureaucrat'

Rose Bird is highly conscious of the responsibilities of her job and equally as cautious in exercising them. She is so cautious, some say, that sometimes she doesn't act for fear of risking a mistake. And, others add, she is so cautious that she keeps a tight rein on her staff and department heads and is ill at ease with new faces and untried ideas. There are even some who say that she is so caught up in trying to balance change with keeping the wheels of government moving smoothly that she has been cast in the role of the administration's "super bureaucrat" — the one who manages but doesn't push for new ideas.

"She seems to have the theory that running the agency smoothly is an end in itself," one administration member said. "All of her programs are running smoothly all right, but they are still running in the same direction as they were when she took over. Consumer Affairs is the only department where Rose could have made a real impact; that's the one department she has that has real potential. But things haven't changed. The leadership is uninspired, and the member boards and bureaus are acting as they always have. Sometimes, there's an occasional splash out of there, but it's not often enough to make a difference." This same person went on to say, however, that an argument can be made that government ought to run efficiently, and he noted that when people look back on the Brown administration Rose Bird may, in that perspective, stand out as the shining star in his cabinet.

Laying the groundwork

While there is truth to the contention that the departments under her have shown little public change in the last 15 months, it does not necessarily mean that smooth administration is her chief goal. People close to her (and she herself) say that she likes to get to know her areas well before taking any action. It's her training as an attorney and public defender in Santa Clara County that makes her examine things carefully before moving. "Rose isn't comfortable with unknown quantities," says one acquaintance. "Anyone who works in a public-defender's office builds up a healthy skepticism about things. You learn to check people and things out before you act." What this means, some colleagues argue, is that although the first year may have produced few noticeable results, the ground-work has been laid for changes that Bird can personally shape and control closely — more closely than if she had given her staff free rein in the early months.

Bird spent the greatest part of her time since her appointment in January 1975 drafting and winning approval of the Agricultural Labor Relations Act, which may have been the administration's greatest achievement in its first year. Most of the rest of her time has been spent appointing department heads, developing the bureaucratic relationships between the departments and her agency office, and becoming acquainted with the wide range of activities under her jurisdiction.

But most of what Bird spent her time doing during her regular 10-to-12 hour days has had little apparent impact on the state. That is not to say that nothing is happening. Certainly her background and record would make her the object of high expectations.

Road to Sacramento

A *magna cum laude* graduate of Long Island University, Rose Bird spent two years working on a graduate degree in political science at the University of California at Berkeley. There she met Brown, who was just finishing his undergraduate studies. She left the graduate program for a year's internship in the state Assembly, and when she returned to Berkeley it was as a law student. She graduated from Boalt Hall with honors and went on to serve as law clerk to the chief justice of the Nevada Supreme Court. People who remember her from those days say she always stood out as the most competent and intelligent among her peers.

From Nevada, she went on to the Santa Clara public-defender's office. By the time she left to join the new administration, Bird was in charge of the public defender's appellate division while also teaching consumer law at Stanford. The Santa Clara job was her second choice; she had applied first in Sacramento County but was turned down, she said, because of her sex.

Being the first woman in the cabinet — she was appointed several weeks before Brown selected Claire Dedrick as secretary of resources — doesn't strike Rose Bird as any major accomplishment. She sees herself as someone who got where she is because of qualities other than gender. "People judge you as you judge yourself," she said. "When I was one of the few female trial attorneys, I didn't see myself as a 'prefix lawyer' [one with a Miss, Mrs. or Ms. in front of her name]. I want people to judge me as an individual, not as a member of my sex. I handle myself as an individual, not as a woman, because you have to focus on the real issue. And besides," she added with a laugh,

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"people holler and curse me just like a man." The fact that she has done little to help the cause of women in state government rankles some. Of the nine appointments she has made to top-level posts within her agency and the departments under her, she has picked only one female, the mayor of Morgan Hill in Santa Clara County, Virginia Days, who was named director of Veterans Affairs. (Days in a Navy veteran.)

All in the family

Although Bird demands order and strict organization, she does not stand on formality. Everyone in her office and in the departments she oversees calls her "Rose". Respect and responsibility, she says, grow out of good work and effective leadership, not arbitrarily wielded authority. She treats her immediate aides like members of her own family. In addition to bringing her mother's baked goods into the office, she has been known to lend her mother to deputies to help them with babysitting or even pruning the bushes in the backyard. On weekends she socializes with her aides, cycling, picnicking or participating in the latest craze to hit the office — paddleball. (Bird's vigorous life was curtailed last month when she underwent what doctors at Stanford Medical Center called a "modified" mastectomy.)

Tight reign

While there's a good deal of friendliness and family spirit around the office, there's no doubt who's in charge. And, frequently, this knowledge stifles aides and department officials who happen to disagree with her. Bird's relations with her fellow cabinet member, Business and Transportation Secretary Donald Burns, also are somewhat strained when they have to deal with inter-agency questions. (Burns reportedly finds Bird's insistence on detailed studies of every proposal to be frustrating.)

One reason why there have been so few major changes in the departments under Bird is because she keeps close track of everything in her domain. Her aides have little discretion, and her departments can rarely act without first checking with the boss — another trait she shares with Brown. Bird hand-picked her four top aides — three are former students at Stanford Law School. People who knew her when she was making the selections say that she purposely sought people who had few ideas of their own ("hidden agendas", as she calls them), people who would follow her lead and do her bidding. "It's useful in my position to have people you know and trust and whose ability you can rely on," she said.

As for her own "agenda", Bird said, it includes doing something to help out the family farmer as a California institution because "it's so healthy to the American system." She wants to promote direct marketing of agricultural products by the small farmer and wants the University of California to study the problems of the small farmer. In accordance with a proposal in the Governor's State of the State address in January, she is planning a strategy to wipe out the special funds that support most of the virtually autonomous licensing boards and commissions in the Department of Consumer Affairs to force them to seek general funding like most other state agencies. (Bird also wants to increase public membership on the licensing boards.) The agency also is working on a revision of the Fair Employment Practices Commission and a plan to finance political campaigns through the state income tax.

"Rose has exceeded a lot of people's expectations," said one official. "When she was appointed she was seen by some as just a nice lady who would just blend in. But she's stronger, more assertive, than anybody thought. She's not afraid of the Governor, and not afraid to tell him that she thinks something's a load of crap."

NEWSMAKERS

Eu in the mansion?

Legislation by Senator **Alfred Alquist** would allow someone other than the Governor to live in the new $1.3 million Governor's mansion. But Lieutenant Governor **Mervyn M. Dymally** has let it be known that he would decline the opportunity, paving the way for Secretary of State **March Fong Eu** to live in the mansion's regal splendor .... Two more California politicians announced they are retiring from public life, Congressman **Thomas Rees** and Assemblyman **Leon Ralph,** both Democrats. Their announcements came as surprises.

Sight to see: debates between **Bob St. Clair** and Assemblyman **John F. Foran,** both Democrats running for the state Senate seat vacated by Mayor George Moscone of San Francisco. St. Clair is a huge former San Francisco 49er footbal tackle, and Foran is one of the shortest men in the Legislature .... **John H. Williams,** a Republican accountant from Lafayette, was named the state's new auditor general. He succeeds **Harvey Rose,** who was fired by the Democratic-controlled Joint Legislative Audit Committee last summer.

The Watergate special prosecutor's office decided not to challenge the reversal of **Ed Reinecke**'s ITT perjury conviction, paving the way for the former lieutenant governor to return to the world of politics. But Reinecke decided not to run for office this year. He is selling real estate in Sacramento .... **Donald H. Segretti,** the dirty trickster of the 1972 Nixon campaign, was suspended from practicing law in California for two years by the state Supreme Court.

Resignations: **Robert Sawyer,** from the Air Resources Board, temporarily leaving the board without a quorum because Governor Brown had declined to fill more than three of the five posts on the panel .... **Joe C. Ortega,** from the Agricultural Labor Relations Board, following his arrest on sex perversion charges .... **Mark N. Christensen,** as chancellor of the University of California campus at Santa Cruz. He had been under fire from faculty members .... **Allen F. Breed,** as director of the California Youth Authority.

Appointments by Governor Brown: **Robert E. Burton,** brother of Congressmen Phil and John Burton, to the Adult Authority .... **Paul Halvonik,** former legislative affairs assistant to Brown, as acting state public defender .... Labor arbitrator **Reginald H. Alleyne Jr.,** former Assemblyman **Ray Gonzales,** and National Labor Relations Board official **Jerilou H. Cossack,** to the new Educational Employment Relations Board .... Municipal Judge **Howard J. Thelin,** a former Republican Assemblyman turned Democrat, to the Los Angeles Superior Court Bench .... **Arthur R. Carter,** secretary-treasurer of the Contra Costa Central Labor Council, as chief of the state Division of Industrial Safety.

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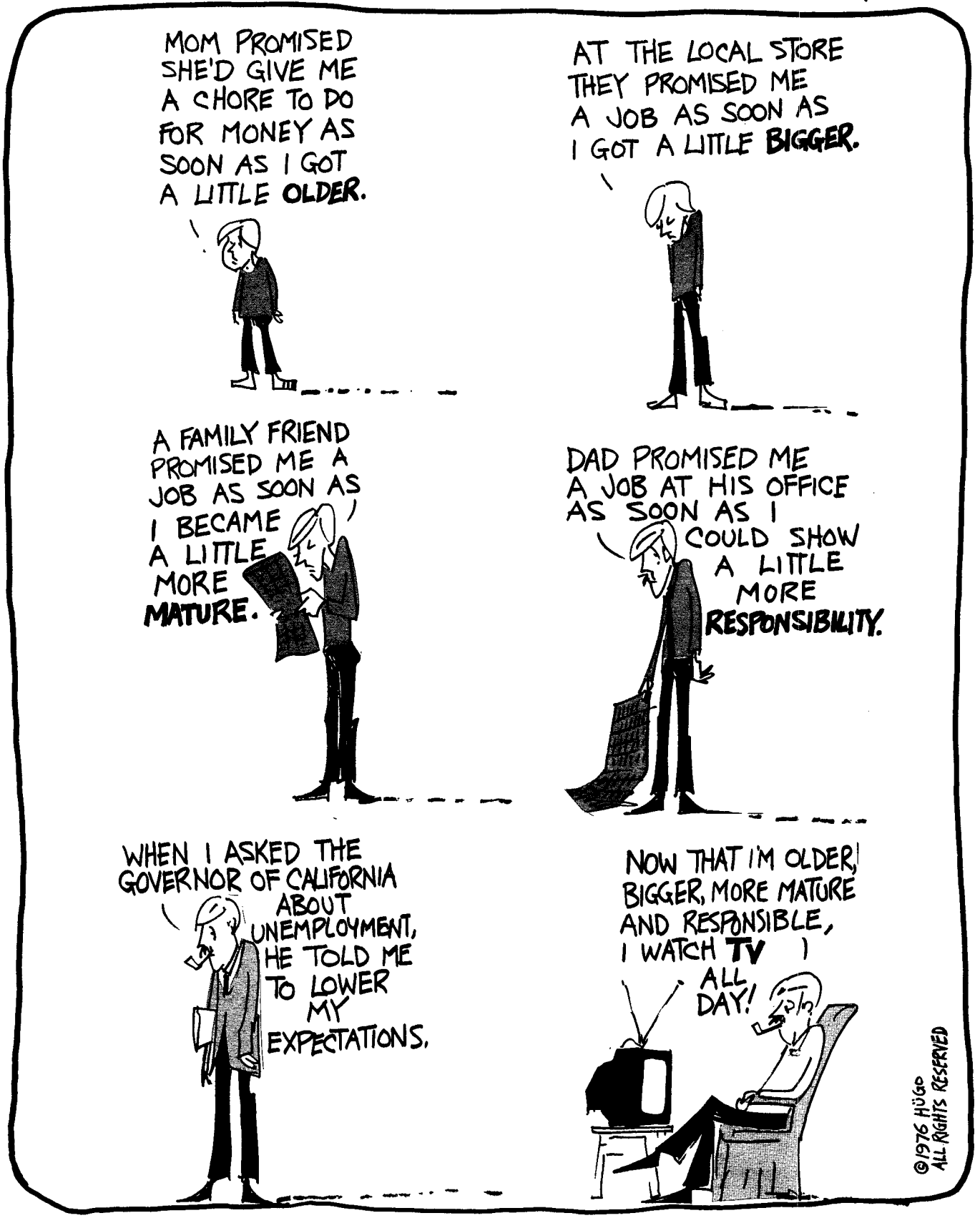
Caucus

by HüGo


MOM PROMISED SHE'D GIVE ME A CHORE TO DO FOR MONEY AS SOON AS I GOT A LITTLE **OLDER.**
AT THE LOCAL STORE THEY PROMISED ME A JOB AS SOON AS I GOT A LITTLE **BIGGER.**
A FAMILY FRIEND PROMISED ME A JOB AS SOON AS I BECAME A LITTLE MORE **MATURE.**
DAD PROMISED ME A JOB AT HIS OFFICE AS SOON AS I COULD SHOW A LITTLE MORE **RESPONSIBILITY.**
WHEN I ASKED THE GOVERNOR OF CALIFORNIA ABOUT UNEMPLOYMENT, HE TOLD ME TO LOWER MY EXPECTATIONS.
NOW THAT I'M OLDER, BIGGER, MORE MATURE AND RESPONSIBLE, I WATCH **TV** ALL DAY!
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CRONYISM, SECRECY AND THE INITIATIVE

Another energy crisis.. a malfunctioning commission

By JENNIFER JENNINGS

For the past year, California has managed to escape an energy crisis in the familiar sense of the word. But California has not been faring well in planning for its future energy needs. The state has been losing the battle with the federal government over off-shore drilling. There has been a great deal of commotion over financial arrangements involving future supplies of natural gas from ARCO and Exxon. And the prospect of the state's new Energy, Resources, Conservation and Development Commission's becoming an effective agency is not at this point particularly encouraging.

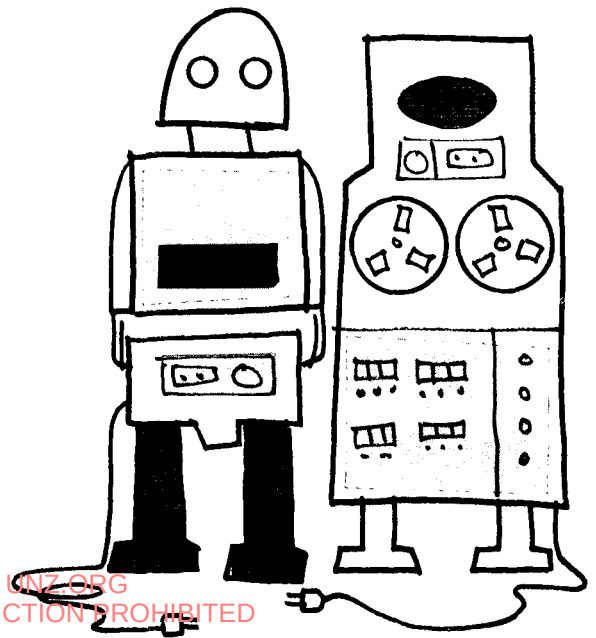
The Energy Commission, which began operation at the start of 1975, has been plagued with internal difficulties. Some of the problems: conflicting personalities and attitudes among the commissioners, an inexperienced staff, accusations by a division chief who lost his job, and the inherent complexities of the mission at hand — planning for California's future energy needs. The Warren-Alquist Energy Act, which created the commission, was described at passage by the Sierra Club's lobbyist, John Zierold, as "the most forward-looking energy legislation in the country, probably even in the world." Now, however, Zierold and other environmentalists express disappointment that the commission has not approached its potential.

Governor Brown had the opportunity at the start of his administration to form a commission precisely to his liking since the law gave him the power to appoint all five original members at once (but for staggered terms). To head the commission, he selected one of his top political aides, Richard Maullin, a former guerrilla-warfare expert for the Rand Corporation. (Though Maullin drew the shortest term — one year — Brown reappointed him in January for five years.) Cries of cronyism arose when Brown selected an old University of California friend, Alan Pasternak, to fill the scientist slot. (Pasternak is a chemical engineer, and environmental groups had hoped for a physical scientist of broader background.) Also, there was criticism of Brown's selection of former Assembly speaker and Brown's gubernatorial opponent Bob Moretti as the environmentalist on the commission. Conservation groups claim that Brown should have found a less sensitive spot to pay off a campaign debt to Moretti, who endorsed Brown for governor after losing to him in the primary. The other two commissioners — strong environmentalist Ronald Doctor and attorney Richard Tuttle — are less controversial.

Assemblyman Charles Warren, author of the energy act, is not satisfied with the appointments. "I think it would have been possible for the Governor to have appointed members who could have better implemented the bill in a more cooperative fashion than has been the case," he said. "I am not at all convinced that the concepts and the sensitivity of the bill were fully appreciated by the Governor at the time he made the appointments." Antonio Rossmann, who resigned last month as the commission's public adviser, sees inherent problems when five individuals attempt to start an agency from scratch. "This situation gives people the time and opportunity to fight over their own fiefdom, to try to establish a turf of their own and to become obsessed with the administration and personalities," he explained. But a representative of the energy industry, senior counsel Daniel Lubbock of Pacific Gas & Electric, takes a different view: "They have done a very good job, considering their short time limits. They have done as well as people can expect."

Public orientation

The commission's powers and responsibilities are far-reaching and will in one way or another touch every Californian. Because of that, the act stipulates: "All meetings and hearings of the commission shall be open to the public and opportunity to be heard with respect to the subject of the hearings shall be afforded to any person." And the office of public adviser was created for the same reason. At the outset, the commission was accused of trying to evade the public, of holding illegal closed sessions at which policy matters were discussed. Robert Foster, manager of program assessments, concedes that some mis-



The author wrote "Are qualified females available to the state?" in the March 1974 issue and "Decline of the auto" in January 1975.

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takes were made through inexperience but considers those shortcomings to be behind the commission now. "You can't even put three of the commissioners in a room together now," he quipped. Foster hasn't noticed any particular interest by the public in the commission.

According to Rossmann, "The commissioners seem to have come to the commission with fairly fixed ideas as to what California's energy policy should be and how it should be arrived at. An attitude of tolerance and respect for another's point of view is not their strong point." This attitude is echoed by Thomas Graff, regional counsel for the Environmental Defense Fund and a frequent participant at commission meetings. The commission, he says, appears to "have somehow determined that environmental and public consumer groups urging conservation are their enemies."

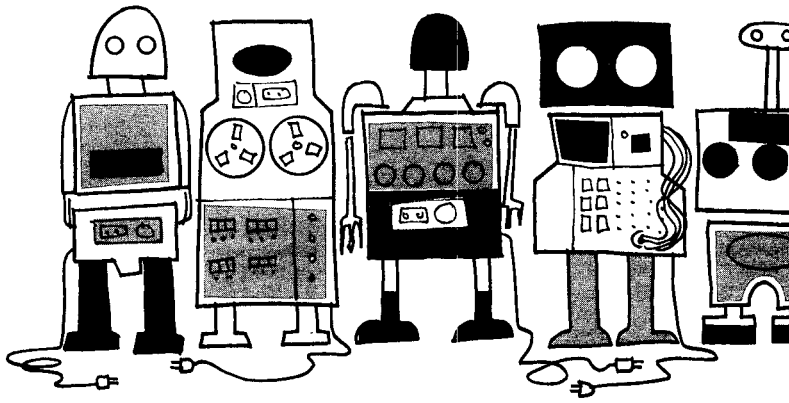
Rossmann's duties included recommending to the commission additional ways to aid public participation. (He resigned February 9th, claiming that he could no longer work for the commission with a clear conscience, and urging the commission to "end its preoccupation with internal palace intrigues.") He has urged, for example, that the commission set aside $250,000 in the coming fiscal year to subsidize members of the public who wish to contribute to the commission's proceedings so that their viewpoints can compete more fairly with those of the interests involved. (The funding of public participants, although new to California, has been used by the Federal Trade Commission.) Reception to the idea has been mixed. Assemblyman Warren supported it, but Commissioner Moretti feared that the practice could spread, resulting in "spending several hundred million dollars a year on people using the public coffers as a travel service."

Forecasting needs

More fundamental to the commission's role is the debate over the growth rate of energy use in California and its relationship to the state of the economy. And this has led to a controversy concerning one of the most important and far-reaching responsibilities of the commission — to forecast future electrical demand. The commission uses its forecast to assess statewide electrical needs, and the utilities use it to formulate plans for powerplant construction. Last September, the commission decided to use as an interim forecast the California Public Utilities Commission's projection. The PUC forecast had been widely criticized for partiality (it is based primarily on utility estimates) and inaccuracy. The Energy Commission, in adopting the PUC prediction without revision, left itself open to the charge from environmentalists that it was not making a sufficient effort to reduce energy demand. Maullin said that the commission recognized the problems with the forecast but was under a deadline and had no choice but to use it for now.

It is doubtful, however, that any power facility will be certified under the interim forecast. Because of the time required to process an application, requests will be examined under the new forecast, scheduled to be announced by next January.

The controversy over the PUC forecast has intensified since the dismissal of the head of the commission's forecasting and assessments division, Phillip S. Mitchell, who worked as a forecaster for 14 years and claims to have been fired for political reasons. Mitchell's division produced a revised energy projection severely criticizing the PUC forecast as being at least 15.8 percent too high. Mitchell questioned the need for nuclear-power plant construction in California over the next decade. This, claims Mitchell, is not what most of the commissioners wanted to



hear. He charged that a commission majority opposes the Nuclear Powerplant Initiative on the June ballot and does not want a forecast that will help the proposition. (He asserts that Moretti told him that the division could forecast anything it wanted after the election.)

The Energy Commission is not directly involved with the initiative but, if the measure passes, determination of the safety of nuclear power plants would be shifted from the commission to the Legislature. Commissioners Moretti, Tuttle and Pasternak are urging that the commission oppose the initiative, though Pasternak concedes that the commission is making no great effort to study the issues raised by the proposal. Moretti said that the measure "ignores the logic of the situation, that this commission is capable of making good, intelligent decisions for the people of this state." On the other hand, Ronald Doctor, who has the most experience in the energy field among the commissioners, favors the proposition but doesn't feel that the panel should take a stand without benefit of a careful analysis of the initiative. Finally, Maullin, the only member who has yet to take a stand, doesn't think that the commission should take an official position. Warren is similarly concerned. "I am fearful," the Assemblyman said, "that if they get into this controversial area, the public confidence which they should have, performing quasi-judicial functions as they do, might be jeopardized."

The commission is also charged with the task of reducing energy waste. A couple of deadlines set by the Legislature for the issuance of regulations in this area have been missed, and the commission is increasingly criticized for lack of action, notably by Warren. Maullin maintains that the commission decided to take extra time because of its concern for establishing the best possible standards rather than merely meeting legislative deadlines. And Commissioner Tuttle expressed reservations over the basic idea of setting conservation standards. "I am concerned about prematurely imposing fundamental changes on the way people live where they may not perceive the need," he said.

Other sources

Another principal responsibility of the commission is development of alternative energy sources, and it awarded $146,000 worth of contracts for research into solar and geothermal energy, considered to be the most immediately realizable alternative sources. But the commissioners' opinions vary widely on just how feasible solar energy is or will be.

The Energy Commission is seeking a clear assessment of California's extensive geothermal resources and what needs to be done to accelerate their development. The Geysers field in Sonoma County is producing 500,000 kilowatts now, but it is estimated to have ten times that capacity, or the equivalent of five nuclear power plants. The development of these fields has been hampered by complex permit procedures which the commission could simplify, and a lack of aggressiveness by oil companies

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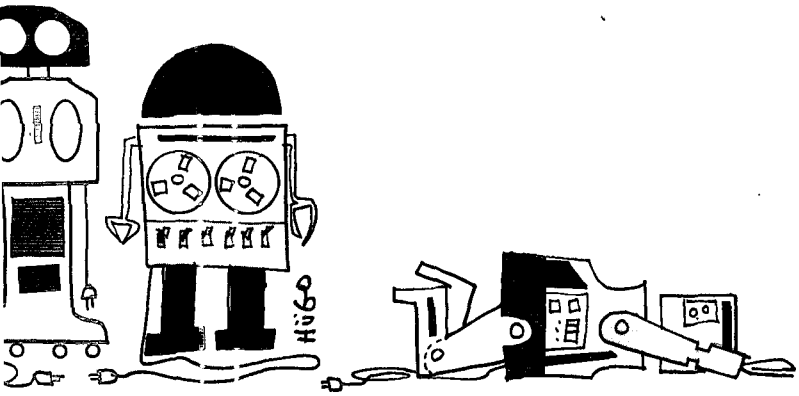

holding leases on the geothermal properties.

As though this were not sufficient controversy, it appears that a legislative struggle is brewing between the energy and coastal commissions, which now have concurrent jurisdiction over siting powerplants in the coastal zone. The Coastal Commission in December submitted its Coastal Plan to the Legislature in which it recommended that a permanent commission be created to control the coast and that the new agency be given more extensive authority in energy matters. The plan was reviewed by the Energy Commission's staff, which recommended opposition on the ground that the Legislature should vest in one agency the authority for comprehensive energy planning. Commissioners have not yet acted on the staff proposals.

Off-shore oil

The United States Department of the Interior and two multinational oil companies, ARCO and Exxon, have caused California considerable consternation in energy disputes over the last year. The Department of Interior's Outer Continental Shelf leasing program was the first major energy issue faced by the Brown administration. Although the Energy Commission would be considered the logical agency to analyze the situation, the commissioners voted to shift the main focus to the office of Planning and Research, because the majority of the commissioners didn't want to get involved while dealing with so many other responsibilities.

As originally proposed, the lease sale was to take place early last fall and involve 1.56 million acres of the Outer Continental Shelf from Santa Barbara to San Diego County. This plan provoked complaints from Governor Brown, Los Angeles Mayor Bradley, numerous local governments, environmental organizations and a sizable proportion of California's congressional delegation. The main objections to the sale were:

- *The absence of a national energy policy to justify the immediate development of off-shore oil.*
- *An unclear assessment of how much oil the acreage contained and the environmental impacts of the development of the California coastline.*
- *The lease sale would take place before an imminent congressional revision of federal leasing practices, which now excessively favor oil companies.*

Representatives of the Brown administration and various other state and local officials met with Interior officials, but were unable to get any major concessions other than removal of Santa Monica Bay tracts from the lease sale. The state, along with 15 local governments, filed suit last November 24th in U.S. District Court seeking to delay the sale. The question raised is whether or not Interior can void a lease once an oil company has done exploratory work. However, among charges that the suit was filed too late, the lease sale was held on December 11th.

Secretary of the Interior Thomas S. Kleppe had predicted that the sale would attract between $1.5 to $2 billion, but the high bids drew only $438.2 million, with only 70 of the 231 tracts involved. A major concern of the state was the depth of some of the tracts offered, but few tracts deeper than 700 feet were bid upon. To many, this was seen as an indication that the oil companies realized that they do not have the technology to develop the deep-water tracts. Governor Brown called on Interior to reject the bids, saying that the oil companies did not bid the fair value of the tracts. Brown is concerned that the companies have to pay only 16⅔ percent in royalties for most of the tracts and that none of this money will go to the state or local governments. Nevertheless, Interior accepted 56 out of the 70 high bids, and some oil companies are hoping to begin drilling by summer.

While state and local officials were losing this battle with Interior, the PUC was sparring with ARCO, Exxon and the Federal Power Commission. Throughout most of 1975, the FPC had an advance-payment program under which oil and gas companies could require utilities to pay for negotiating rights for gas not yet produced. The utilities would then pass this charge on to consumers who, in effect, were forced to invest in the oil company's venture. The PUC was pressured into approving the utility-rate increase because the commissioners did not want to see California deprived of the gas. The PUC estimated that the advance-payments program would cost Californians $1 billion over the next ten years, an average monthly increase of $1.50 per month per household. Then, on New Year's Eve, the FPC cancelled the advance-payment program. It said that the program had failed to make a "significant, substantial impact on development of natural-gas reserves that was expected of the program." While the decision did not directly invalidate the California agreements (which are under PUC jurisdiction), it did alter the terms of competition for gas supplies.

Specifically, the ARCO deal requires the customers of Southern California Gas to pay the interest on the money ARCO borrows from banks to finance its Prudhoe Bay drilling in Alaska. The cost to consumers would be at least $600 million. In return, SoCal-Gas would get first negotiating rights for 60 percent of ARCO's gas production in Prudhoe Bay. The PG&E - Exxon arrangement is similar, except that Exxon has enough capital of finance its Prudhoe Bay development, and it is requiring PG&E to pay it the interest charges that a bank loan would have imposed.

The New Year's Eve cancellation of the advance-payment program and the legal difficulties with the contract caused ARCO and SoCal-Gas to terminate their agreement in mid-January. Last month, the PUC reopened deliberations on the PG&E — Exxon pact, which may be renegotiated or cancelled.

More sparring

So California still is without a coherent energy policy. And dissatisfaction is growing with the Energy Commission, which is specifically vested with the responsibility to make difficult decisions regarding California's energy use. Whether the commission is being extremely deliberate or is in a state of paralysis is hard to determine now but will become more obvious in coming months. The Warren Committee "oversight hearings" and the biennial report of the commission to the Legislature, which is due next January, will mark major points in the commission's history. The commission is a creature of the Legislature, which also has the power to destroy it. The Energy Act was very explicit as to the commission's duties; no doubt the commission will have to be just as clear as to what it has accomplished.

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California *NEWSBRIEFS*

Secretary Eu sets official lineup for ballot measures The Nuclear Power Plants Initiative will be listed 15th and last among propositions on the June 8th primary election ballot. Secretaryof State March Fong Eu followed custom and gave proposed bond issues the first four numbers. The law gives the secretary of state discretion in numbering proposals put on the ballot by the Legislature, but initiatives must be placed at the end of the list.

The complete lineup:

1. $200-million state school-construction bond issue.

2. $500-million bond proposal to provide farm and home loans for California veterans.

3. $175-million bond issue for water-quality construction projects.

4. $150-million bond issue for community college construction.

5. Requires a simple majority rather than a two-thirds vote of the Legislature to change tax rates for banks, corporations and insurance companies.

6. Eliminate the principal-office tax deduction for insurance companies.

7. Allows the Legislature to define property of historical significance and establish its value for property-tax purposes.

8. Authorizes the Legislature to permit deposit of public funds in savings-and-loan institutions as well as in banks.

9. Authorizes bingo games on a local-option basis.

10. Allows the Legislature, by two-thirds vote, to issue bonds to refund any outstanding debt.

11. Permits local government to use certain lands acquired for transportation purposes, but no longer needed for those purposes, to be used for park and recreation purposes.

12. Revises usury law, setting 10 percent maximum rate on loans for personal goods but allowing higher rates for business loans.

13. Authorizes the Legislature to allow certain persons 62 or older to postpone payment of residential property taxes.

14. Streamlines parts of the state constitution without making major changes.

15. After one year, would prohibit nuclear powerplant construction and the operation of existing plants at more than 60 percent of capacity unless federal insurance liability limits are removed. After five years, would require reduction of operations of present plants by 10 percent a year unless the Legislature, by two-thirds vote, has confirmed the effectiveness of safety systems and waste-disposal methods.

Commission proposes elected executive in Los Angeles County Following one year of study, the Los Angeles Public Commission on County Government recommended that the county's five-member board of supervisors be replaced by an elected county executive and a nine-member county legislature. The 12-member commission said that present leadership is "fitful, uneven and crisis-prone" because it is divided among five supervisors.

Under the plan, the county executive would be elected to a four-year term at a non-partisan election. He would be one of the most powerful local elected officials in the nation. Members of the new Board of Supervisors would represent 780,000 people, compared to the present 1.4 million. The commission was headed by Harold M. Williams, dean of the UCLA graduate school of management, and Seth M. Hufstedler, past president of the State Bar Association.

Legislative Analyst lists $104 million in budget reductions The Legislature's fiscal watchdog, Legislative Analyst A. Alan Post, issued his annual report on Governor Brown's budget, recommending the paring of $104 million from the $12.6 billion spending package. In past years, Post has urged much greater cuts in smaller budgets. Post's targets this year include appropriations for the Early Childhood Education program, a $25 million proposed allocation for urban parks and the entire $220,000 earmarked for the California Tahoe Regional Planning Agency. Post said the one-state Tahoe organization should go out of business because the only effective way to protect Tahoe is through the California-Nevada Tahoe Regional Planning Agency.

Women's organization criticizes Brown's judicial appointments The Los Angeles chapter of the National Women's Political Caucus announced that it will support three women trying to win judgeships in Los Angeles County this year because Governor Brown has included only nine women among his first 108 judicial appointments. Ellen Kastel, head of the NWPC chapter, said the governor has been practicing the "old boy" system of making judgeship appointments. She said only 29 of the 944 judges in California are women. J. Anthony Kline, Brown's legal affairs secretary, said the charges are "nonsense" and that Brown appointed more women to the bench last year than any other governor in history. (Brown has also appointed 15 Blacks, 14 Chicanos, 5 Asians and one American Indian to the bench.)

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The politics of growth in the 'valley of heart's delight'

By ROBERT FEINBAUM

In the 1930s, the Chamber of Commerce put out a little booklet booming the Santa Clara Valley as the "valley of the heart's delight". Today, few people would dare call San Jose and its environs delightful. Land occupied by productive orchards as recently as ten years ago has been buried beneath asphalt. Tracts and shopping centers spread over the valley floor and, in places, up into the surrounding foothills. Agriculture has given way to a suburban style of life. In fact, San Jose has become a bedroom city, housing workers who commute to the areospace and electronics industries on the San Francisco peninsula and to pockets of industry scattered through out the valley.

Until recently, most of the citizens seemed oblivious to the environmental chaos around them. Then, suddenly, voters awakened to the problems caused by two decades of rampant growth. Some indications:

- *In 1973, passage of a measure to control growth brought national attention to San Jose.*
- *In 1974's municipal election, San Jose chose its first woman as mayor in Janet Gray Hayes, who campaigned on a slogan of "making San Jose better before making it bigger."*
- *In that same election the voters selected a young police officer for the City Council over the well-known former manager of the Civic Auditorium. The victor opposed development of the foothills and Coyote Valley, while the loser favored immediate development.*
- *Santa Clara voters in the affluent west-valley area replaced a long-time supervisor with an aggressive challenger who campaigned on the need to encourage mass transit and develop coordinated growth policies.*

These indications point to a growing awareness of the necessity for planning and for policies that can heal the wounds still open from the era of all-out growth. As Mayor Hayes said, "It's still a game of catch-up around here."

Robert Feinbaum has previously written on Bay Area politics for the Journal *and contributed "Crisis in the firehouse," to the June 1975 issue and "Disrobing the unfit judge," to the September 1975 issue.*

Bigger equals better

San Jose's growth has been phenomenal. For some time in the 1960s, it held the distinction of being the fastest growing city in the entire

country. As an agricultural trading center for the fertile Santa Clara Valley prior to World War II, San Jose was home to nearly 70,000 of the county's population of 175,000. Then, and into the immediate post-war years, the booster spirit prevailed among the city's leaders to make San Jose what *Mercury* columnist Harry Farrell calls "its own area". They felt that greater size would lead to "real economic and cultural advantages".

After the war, veterans who had been stationed in the area began to come back to the valley to settle. And industry, attracted by a favorable climate, large amounts of available land and skilled labor, located in the area. General Electric and Sylvania built plants in the early 1950s. Small electronics firms like Hewlett-Packard greatly expanded their operations. Ford, IBM and Lockheed came in the middle 50s. Major retail firms, including Macy's and the Emporium, were attracted to the area. San Jose's population leaped upward, from 95,000 in 1950 to 204,000 in 1960 and 460,000 in 1970. Current estimates place the number of city inhabitants at around 530,000, and the county population at nearly 1,200,000.

As people flooded into the area, builders flung subdivisions of single-family houses far and wide across the landscape. Established cities rushed to provide services to the new areas and to annex them before another city could. San Jose was by far the most aggressive of the lot. In 1950, its area was about 17 square miles. Today, it encompasses 147. Other established cities grew, too, and in the decade 1950-60 seven new cities were incorporated in Santa Clara County by residents wishing to stave off annexation. However, when the smoke had cleared, San Jose had increased its share of the county's population from 33 percent in 1950 to about 47 percent today, making it the dominant city in the south bay.

Shift in population

Throughout the latter part of the 19th century and into the early decades of the 20th century, Italians settled in the area. During the summer and early fall large numbers of field hands and cannery workers came to gather and process the crops they grew. Most of the workers came from Mexico, especially after the bracero program encouraged such migration. Many moved on, but some stayed. In the 1940s and 1950s, they settled in the eastern part of the valley, from

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Gilroy into southern Alameda County.

After the war, the burgeoning electronics and aerospace industries brought a shift in the type of people attracted to the Santa Clara Valley. In 1950, agriculture and food-processing still accounted for nearly 30 percent of all jobs in the county. By 1975 the figure was closer to 3 percent. Electronics and aerospace firms, employing only 3 percent of the workforce in the earlier years, had increased to about 20 percent. Workers in the new industries were typically well-paid, highly skilled, white-collar technicians and professionals. (As of the last census, Santa Clara County had more households with incomes surpassing $10,000 and more PhDs than any other county in the Bay Area.)

In the transition from agriculture to suburbia, the land-owners made out very well. Land worth $500 an acre for growing apricots or walnuts leaped in value to $10,000 or $20,000 for housing tracts. Some of the Italians and the Japanese truck-farmers who held readily developable land became rich.

Political growth

The area's boom in population changed the politics as well as the economics of the Santa Clara Valley. From 1954 to 1974, the number of registered voters increased from somewhat more than 172,000 to more than 527,000. As the voting population grew, the county's number of seats in the Legislature and Congress increased correspondingly.

Before the end of cross-filing, Santa Clara County normally sent Republicans to Sacramento. In 1954, despite a Democratic registration edge of 49 to 44 percent, its congressman (Charles Gubser), its state senator (John Thompson), and its two assemblymen (Clark Bradley and Bruce Allen) were all Republicans. That situation began to change in the early 1960s. In 1962, Don Edwards was elected to Congress and Bill Stanton and Alfred Alquist to the state Assembly. All three were Democrats. Now Santa Clara County's representatives include only two Republicans — Representative Pete McCloskey, whose district includes the mid-peninsula areas of Palo Alto, Sunnyvale and part of western San Jose, and Assemblyman Richard Hayden from the 22nd district.

The county's political geography reflects existing social and economic differences. In the affluent west-valley communities of Saratoga, Los Altos, Cupertino and Monte Sereno, and the Almaden part of San Jose, Democratic registration ranges from 36 to 44 percent. In the east-side areas of San Jose, with heavy minority-group populations, and in the working-class suburb of Milpitas, Democrats register up to 70 percent of the voters.

As a whole, the county's Democratic registration has crept gradually upward over the last two decades. Now 55 percent of the voters claim to be Democrats, about 37 percent register Republican and nearly 7 percent decline to state a party preference. In Santa Clara County, as elsewhere in California, Democratic candidates rarely receive as large a proportion of the vote as their registration would suggest. In the past few elections, however, a somewhat higher percentage of the county's voters have chosen Democratic candidates for state and national office than has been true of California.

Feminist capital

California elections for city and county office are non-partisan. Candidates shy away from party identification. Even Democratic aspirants in San Jose (with its large Democratic registration edge) feel it unwise to make party an issue. In the last mayoralty election Janet Gray Hayes, the Democrat, facing a Republican in the run-off, was careful to have a well-known Democrat and a well-known Republican co-chair her campaign. "Most campaigns in this area are built around individuals," according to Norman Mineta, former San Jose mayor and now congressman. Candidates develop their own organizations, raise their own funds and run their own campaigns. Rarely do slates develop, although informal cooperation between candidates does take place. The *San Jose Mercury-News*, the only daily covering the area, endorses candidates for the San Jose City Council and for the Santa Clara Board of Supervisors. Its blessing puts the "establishment" stamp on those selected and has been influential, though not decisive, in recent San Jose municipal elections. Its candidates do not, however, run as a slate.

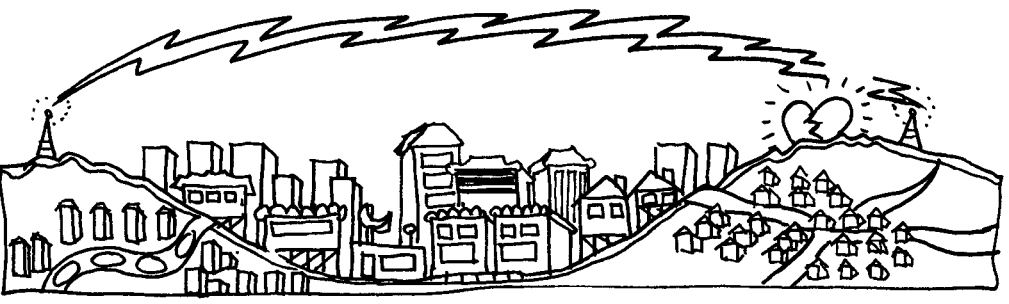
Such an individualized approach to politics, coupled with weak parties and the absence of recognized kingmakers, has lately produced some interesting politicians. For one thing, Santa Clara County has become regarded as the feminist capitol of the country. Janet Gray Hayes, San Jose's mayor, is the first female to direct a city of more than half a million people. The city also has a female council member in Susanne Wilson, and there is talk about a third female on the seven-member council after the upcoming elections. One of the county's supervisors, recently appointed to that position, is a woman, and the newly elected representative to the state Assembly from the 24th district is a former teacher, Leona Egeland.

In Representative Mineta, the area has produced the only mainland congressman of Japanese-American descent. His rapid rise in politics was, in part, the result of his being the "right man at the right time", as his election ads proclaimed, but also, in part, a result of the openness of Santa Clara politics. Assemblyman John Vasconcellos of San Jose has made a name for himself in his lonely quest to bring a humanist philosophy to politics.

Hayes and Mineta share several attributes. Both were involved in important city advisory committees before running for political office. Both devoted full time to their activities on the council and to their responsibilities as mayor. And both see the need for change in the way government responds to citizens.

Janet Gray Hayes

Janet Gray Hayes was born in Indiana, received a master's degree in social work from the University of Chicago and was employed as a social worker for several years before settling in San Jose. Her involvement in the community took a number of forms: She was active in the homeowners association in her area and served as its vice president; and she became involved in the League of Women Voters and subsequently



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Representing Santa Clara

Republicans, who not many years ago held at least half the congressional and legislative seats in Santa Clara County, now are represented in the county only by Congressman Pete McCloskey and Assemblyman Richard Hayden. And McCloskey is one of the most liberal Republicans in Congress. Here is a rundown on the 11 representatives from the county:

House of Representatives

Don Edwards, 61, first elected in 1962. An attorney and businessman (title insurance), Edwards spent a small fortune to win his first term and has been entrenched since. He is one of the most respected members of the House Judiciary Committee.

Paul N. (Pete) McCloskey, 48, first elected in 1967 after winning a bitterly fought contest with Shirley Temple Black. A liberal who opposed Richard Nixon for the GOP presidential nomination in 1962, he invariably faces strong conservative primary opposition.

Norman Y. Mineta, 44, elected in 1974. The former mayor of San Jose won in a district that might have gone either way and promptly shot into national attention as chair of the large freshman class in Congress. He is probably the most prominent politician of Japanese descent on the mainland.

State Senate

Alfred Alquist, 67, first elected to the Senate in 1966 after four years in the Assembly. A former supervisor for the Southern Pacific, he has specialized in transportation issues in the Senate. He was the Democratic nominee for lieutenant governor in 1970.

Jerry Smith, 39, elected in 1974. The liberal, former mayor of Saratoga showed upon arrival in Sacramento that he has leadership ability.

Arlen Gregorio, 44, first elected in 1970. He represents the Peninsula section of the county and his original base was in San Mateo County. He is a reformer who has become identified with the fight against alcoholism and for state aid in developing the arts.

Assembly

Victor Calvo, 51, elected in 1974. A smooth politician, he captured with ease a theoretically marginal district from his base as a county supervisor.

Leona Egeland, 37, elected in 1974. A teacher and former lobbyist for Zero Population Growth, she is a political liberal with strong ties to the women's equality movement.

Richard Hayden, 46, first elected in 1970. The former mayor of Sunnyvale follows a middle-of-the-road philosophy and makes few enemies. His district is becoming somewhat more liberal — and so is his voting record.

Alister McAlister, 46, first elected in 1970. He is an attorney allied with Assembly Speaker Leo McCarthy and is considered one of the most straitlaced members of the Legislature.

John Vasconcellos, 43, first elected in 1966. He is the state's prime advocate of a new brand of humanistic politics. [See "The touchy-feely legislator," *CJ,* December 1975.]

served as president of its central Santa Clara Valley chapter and San Francisco Bay division. During that time she became concerned with environmental problems and led a group protesting expansion of San Jose's airport and helped to guide a community-initiated "instant park" project. She was appointed to the San Jose Goals Committee and chosen to chair it. In 1968, the committee issued a report urging the city to reorient its philosophy from one of all-out growth to preserving and enhancing the quality of life for its residents. This was one of the first solid indications that people were becoming disenchanted with the city's growth policies.

Janet Hayes was next appointed to the Mayor's Housing Advisory Committee. Later, she chaired the city's Redevelopment Agency. In 1971, she ran for the City Council and, with the backing of the *Mercury,* which called her a "concerned environmentalist", was elected by a 3-to-1 margin. In 1974 Mineta, then mayor of San Jose, decided not to run for re-election, but to try for Congress instead. Hayes, the city's vice mayor at the time, declared her candidacy. She felt that the position would be a challenge, and that she could "do the job as well as or better than anybody". Six other candidates also entered; two were serious competitors — Councilman Al Garza, the first Mexican-American elected to the San Jose Council, and Bart Collins, retired chief of detectives for the San Jose Police Department. Hayes led in the June balloting with nearly 36,000 votes, followed by Collins with 33,000; Garza finished a distant third. The run-off was bitterly fought with the two candidates differing sharply on a wide variety of issues. Collins expressed approval of development projects, favoring urbanization of the Coyote Valley, and road widening for the new Evergreen Junior College. Hayes campaigned on moving the city "in the direction of managed, controlled growth", wanting open space preserved in Coyote and ways studied to meet the traffic problems expected from the junior college. It was the closest mayoral election ever in San Jose, with Hayes winning by 1,678 votes.

Norman Mineta

Norm Mineta was born in San Jose. After a stint in the Army, he went to the University of California, majored in business administration and returned in 1956 to join his father's insurance agency. He became active in the community, serving as president of the Japanese-American Citizens League in the late '50s and finance chairman of the Santa Clara County Council of Churches in the early 1960s. He was appointed to the city's Human Relations Commission. In 1965, he became concerned about renters displaced by construction of Highway 280 who were not receiving relocation assistance. Partly as a result of his pressure, the City Council formed a Housing Authority to aid the 1,700 people evicted, and Norm Mineta was made a commissioner. He was also serving on the Goals Committee.

In 1967 Mineta was appointed, from more than 25 applicants, to fill out the unexpired City Council term of Mayor-elect Ron James. In San Jose appointment has become a means of rewarding minority groups "whose time has come" with a seat on the council, without re-structuring the system of at-large elections. Mineta gained his seat that way; so did Al Garza. The first female county supervisor, Geraldine Steinberg, was also appointed. Then, with the advantage of incumbency and backing from the *Mercury,* election to a regular term becomes greatly simplified. Both Mineta and Garza were re-elected without the need for a run-off.

After serving as vice mayor, Mineta ran for mayor in 1971. The office had become vacant when Ron James decided to retire after one term. Mineta campaigned on the need "to overcome

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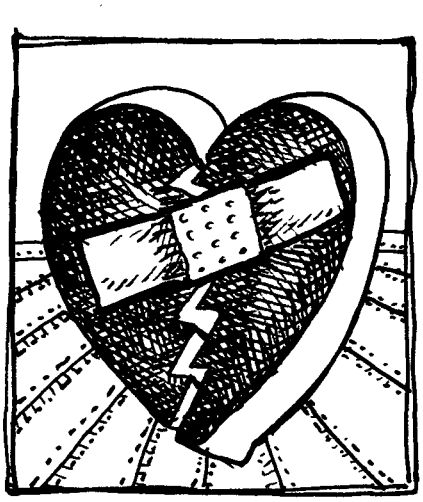
alienation" and provide for "orderly growth". With wide support, he was elected by an overwhelming margin. Once in office he began to try to make government more responsive to citizens. Following up on a campaign promise, he called council meetings in neighborhoods around the city. Mineta began to play an active role in executive-committee sessions held by the city manager, in which all city department heads took part. ("It took them six months to get over the idea that the mayor was sitting in on the meetings," he recalled.)

Although political observers figured Mineta a sure bet to win reelection as mayor, he decided to seek the congressional seat vacated by the retiring Republican congressman, Charles Gubser. His opponent, George Milias, was well known in much of the district, having represented part of it in the Assembly, but Mineta ran on his record as a "shirtsleeve mayor", and won a substantial victory.

Slowed growth

Until recently, the growth coalition — composed of builders, developers, construction unions, the Chamber of Commerce, the *Mercury-News* and the city manager's office — dominated San Jose politics. From the time San Jose hired A.P. "Dutch" Hamann as city manager in 1950 until adoption of its Urban Development Policy in 1970, the city eagerly sought to expand as rapidly as possible. In this haste to facilitate growth, however, the coalition and its representatives on the City Council largely overlooked the needs of residents moving into the new areas. Public-safety service was spread thin; few provisions were made for parks or recreation programs; schools could not be built fast enough to accommodate the new residents' children; congestion intensified; pollution levels increased.



San Jose voters sent City Hall a message when they turned down several bond issues in 1966. Since then only one bond measure — for sewage-treatment-plant improvements — has passed. The growth coalition felt the impact of the voters' mood in the 1969 municipal elections. Two of its candidates — long-time Councilman Lou Soleri, a fervent advocate of growth, and savings-and-loan executive John Lisher — were defeated in the run-off.

Shortly after the election, Dutch Hamann retired. San Jose's policy toward growth started to change. In the next year, the council passed an Urban Development Policy — one of the nation's first. Its goals were to "insure that San Jose's future growth will proceed in an orderly, planned manner to achieve a balanced composition of industrial, commercial, residential and public uses."

The school issue

As important as the Urban Development Policy was as a milestone, it was weak as an operating document. One particular point stirred considerable discontent. Policy 14 required that developers negotiate with school officials in districts with inadequate school facilities in order to help provide additional school space. If agreement could not be reached, the issue was to go to the City Council for a decision on whether or not to grant zoning for additional residential construction. Among school officials in over-crowded districts, homeowners with children on double session, and environmentalists who wanted more stringent growth controls, there was a feeling that, as political scientist Terry Christensen wrote, "Policy 14 was little more than a symbolic commitment". A group of them developed an initiative, Measure B, that would force the city to consider its schools when making zoning decisions.

Measure B was lambasted by the growth coalition. The *Mercury* warned that San Jose's economy would stagnate, that hundreds would be thrown out of work, and that the city would be saying that newcomers were not wanted. Despite this opposition, Measure B passed, and three council candidates who supported the measure were elected. It's important to note, however, that the slow-growth coalition was made up of varied and even contradictory elements: School officials were concerned about their ability to house and educate the children descending upon them, not necessarily with growth itself; homeowners wanted to gain services and amenities for their neighborhoods before further city expansion took place. Only the environmentalists seemed likely to question whether growth, balanced or otherwise, is desirable, and they were the least influential part of the coalition.

The emerging Chicanos

On the east side of San Jose, and in the central city, another force — the Mexican-American population — began to take shape in the late 1960s. Of the county's 83,000 Chicanos, slightly more than half live in San Jose. Spurred by the citizen-participation elements created by the "war on poverty" (and later the Model Cities program), Chicanos began to get seriously involved in local politics. In 1966 Arturo Cabrera ran for a seat in the state Assembly and narrowly lost the Democratic primary. Three years later, in the city election, newly appointed San Francisco Supervisor Bob Gonzales urged the "sleeping giant" to awaken and elect a councilman of its own. The candidate received nearly 3,000 votes. But in the next election Al Garza ran for office on a platform with broader appeal and did somewhat better. Shortly thereafter, with backing from mayor-elect Norm Mineta, he succeeded in gaining appointment as a San Jose councilman.

There are about 32,000 Mexican-American voters in the county. Not all of them think alike. The Mexican-American Chamber of Commerce has a different view of the world than does the La Raza Unida. But, as a result of growing registration and a new interest in electoral politics, the Mexican-American minority has become a bloc to be reckoned with in Santa Clara politics.

The variety of political interests found in the valley now approximates that of any metropolitan area of comparable size. The growth coalition, though somewhat subdued at the moment, is still of great significance in local politics. The important interests are hardly likely to want growth brought to a halt in San Jose or in the valley. (As Mayor Hayes says, "We know we're going to grow.") The conflicts of the 1970s seem likely to occur between resident and newcomer over paying for the costs of accommodating expansion, and among groups within the city over disposition of the city's resources. But polarization seems to be fading, and strenuous efforts at planning are replacing the growth-at-all-costs mentality that marked the 1950s and 1960s.

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'CATCH 22' FOR JUVENILES

Does the Youth Authority make criminals out of its wards?

By ANNE JACKSON

When juveniles are imprisoned, are they being "treated" or punished? And does their confinement effectively protect society in the long run?

Those questions are being debated by California Youth Authority officials in the face of increasing attacks on the indeterminate sentence at the adult level and mounting evidence that institutional rehabilitation programs do youngsters more harm than good. By law, the purpose of the Youth Authority is to provide training and treatment rather than "retributive punishment" for youthful offenders. And to provide that treatment, officials have reasoned in the past, youngsters must be locked up — both to assure that they are brought into contact with teachers and counselors and to protect the public until their rehabilitation has been effected.

As a result, it's much easier to get into a Youth Authority institution than to get out. "If our sole purpose was to punish," says outgoing Director Allen Breed, "about half the kids now locked up would have served long enough to justify their release."

About 4,770 young people are currently confined, with another 9,000 on parole. But even those statistics do not reflect the actual number of young offenders caught up in the Youth Authority system. In 1974, 18,203 juveniles were committed to CYA institutions and another 18,071 were discharged, for a net gain of 132 by year's end. And while many of those had been found guilty of serious crimes, thousands of others were committed over the years for acts that would not be criminal if committed by adults.

Crimes and non-crimes

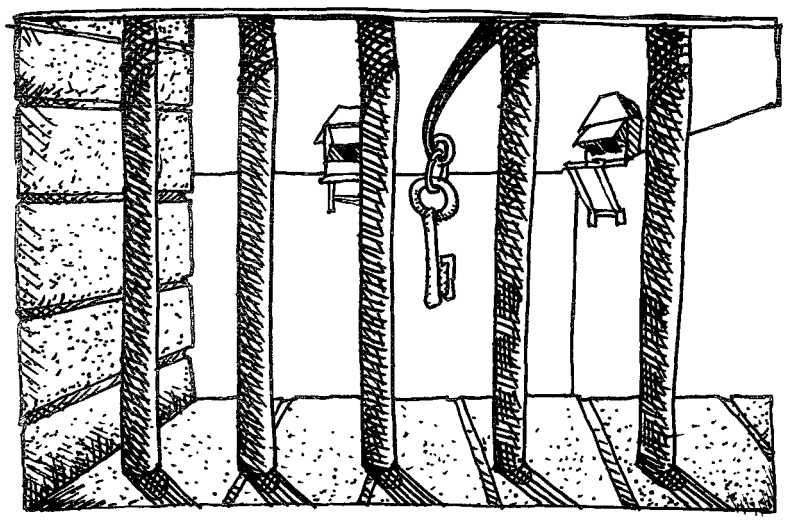
Under the Welfare and Institutions Code, youngsters may be declared juvenile-court wards for disobeying their parents, for being habitual truants from school and, until this year, for being "in danger of leading an idle, dissolute, lewd or immoral life." Once declared a ward of the court, a youngster who doesn't straighten up can be in violation of a court order. Until recently this was enough to land him in a Youth Authority lock-up. Now he is more likely to be sent to a county detention camp or other facility. But if he runs away from the camp, he may still wind up in the Youth Authority.

Of those committed in 1974, 36.6 percent were there for violent offenses — homicide (3.3 percent), robbery (21.5 percent) and assault and battery (11.8 percent). Another 16.2 percent were committed for property offenses, such as theft and forgery. The rest were runaways, incorrigibles, drug-offenders, county-camp escapees, sex offenders, foster-home failures, camp failures (those "unresponsive" to camp programs), and traffic violators. In all, about half of those now housed in CYA institutions are non-violent.

Approximate sentences

Whatever the reason for commitment, however, the length of a youngster's confinement depends almost entirely upon his behavior within the institution and his progress toward the "treatment goals" prescribed for him by the Youth Authority staff. These goals usually include progress in school or job training and in psychiatric counseling.

The eight-member Youth Authority Board sets an approximate sentence based on the commitment offense. The "wards" (as youthful prisoners are called) are then reviewed at least once a year to see if their behavior and progress suggest that they might be paroled. Confinement terms for juveniles, in other words, are just as indeterminate as those for adults — except that, depending on the offense, the Youth Authority cannot keep wards beyond certain ages. Critics complain that this emphasis upon treatment needlessly expands the net of criminal justice to include those who don't deserve to be locked up and helps to justify denying juveniles such basic protections as the



The author, a former research librarian, wrote "Agonizing reappraisal for the environmental quality act," which appeared in the February 1976 Journal.

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right to a jury trial, and incarceration, they argue, is so detrimental to youngsters that any benefits that might accrue from the treatment programs are negated to the point that, no matter what the treatment, the overall effect of the process is to make youngsters not better but worse. And the worse they get, the longer they stay.

Once paroled, moreover, most eventually violate the conditions of their release. By the end of 1974, 63 percent of those paroled from CYA facilities in 1968-69 had violated parole. Of those released in 1973, more than 33 percent had violated parole within 15 months. And in 1974, fully five-sixths of those committed were there for repeat terms. This failure rate has been attributed to a number of factors, including overly vague or overly stringent parole conditions, and the possibility that by the time a youth reaches the CYA he is already beyond help.

'Catch 22'

But the system itself may cause a good part of the harm by making parole dependent upon progress in treatment. In doing so, it creates a maze of "Catch 22" or no-win situations for youngsters in custody. Some examples:

Since statements made by a ward in group-therapy sessions or to staff members may end up in his file as an indication of "treatment progress", thereby influencing his release date, wards learn to exhibit only "marketable" feelings, undermining the therapy and producing a manipulative con-artist — and an angry one at that.

Although the process inadvertently encourages this manipulation, the Board, alert to the tendency, will refuse parole if a ward is perceived to be a "manipulator".

Those who decline this manipulation game — for example, by refusing to participate in group therapy — are disciplined within the institution or viewed as "unresponsive to treatment" and given more time to serve.

Those who fail in the academic or vocational phase of their programs — for lack of either skill or intelligence — and those who are unable to solve their emotional problems through institutional therapy receive longer sentences, thus being punished not for their crimes but for their condition.

Those who successfully adapt to institutional life by doing everything they're told and by surrendering initiative and autonomy become over-dependent and too compliant to deal with the outside world.

Those who react by attempting suicide are diagnosed as "needing more treatment" — a longer sentence.

James F. Smith, supervising attorney for the Juvenile Prison Law Clinic at McGeorge School of Law in Sacramento, sums up the process this way: "They lock kids up, school them in criminality by grouping them together, make them unable to cope with society because they've been out of it for so long, embitter them in the process, and then turn them loose to drop out of trees on us."

Who is rehabilitated?

Other criticism has been aimed at the Youth Authority Board, which has the job of deciding whether a person has been "rehabilitated". Many believe the judgment to be an impossible one. The broad discretion given the board, together with the lack of a reliable yardstick for measuring rehabilitation, makes for capricious parole decisions, some critics have argued, citing as an example a 1973 case. In that instance, the board denied parole to a youth who had earned high marks in every phase of the treatment program and received an enthusiastic recommendation for parole from the institutional staff. The reason given for denial: "Board wishes to see how ward reacts to disappointment." In another case, an 18-year-old who wrote fraudulent checks totalling less than $300 has served 26 months.

But the parole decision can also work the other way. Youth Authority officials concede that it's possible — though not usual — for a murderer to serve less time than a burglar. And the state is currently being sued over the case of one ward, committed for a non-violent offense and paroled to a foster home, who later attacked and seriously injured a neighborhood youngster.

Critics maintain that, even apart from the potential for "wrong" parole decisions, the arbitrariness of the decision-making is harmful to the rehabilitation process. In this they are supported by psychiatrist Lee Coleman of Berkeley, an opponent of the indeterminate sentence. Coleman argues that "to adapt and survive human beings must know the rules of the game", and when a confinement term is indefinite and parole decisions arbitrary, "the [human] adaptive powers may well be strained beyond the limits of the strongest individual."

Punishment or treatment?

Others maintain that while the Youth Authority is not supposed to "punish", punishment is nonetheless exacted for breaking institutional rules. Department officials don't deny that point but insist that the Youth Authority Act forbids only "retributive punishment" but does not disallow punishment imposed for the "betterment" of the individual. That distinction is sometimes stretched to the breaking point. Some examples of that were brought out last spring during an investigation of the Intensive Treatment Unit in Sacramento, a Youth Authority facility for treatment of mentally disturbed youths. A Youth Authority task force there found that youngsters were locked in their rooms for 24 hours and more for such offenses as walking on the grass, being late to breakfast and making too much noise. One youngster was reportedly held in isolation for 19 consecutive days. Another youth committed suicide while confined to his room. Still another was shackled and taken to his room for refusing to open his eyes during a group-therapy session. And others — including two staff members — were threatened with reprisals by the program administrator for complaining about abuses in the unit, the task force reported.

Some changes

The Youth Authority intensified its monitoring of that program to eliminate abuses but continues to condone disciplinary measures as necessary both for rehabilitation and for keeping order. At the same time, the CYA is seeking to improve its record in rehabilitation, while providing more effective protection for the public.

In Oakland, for example, 300 parolees are now participating in a program to test alternatives to parole. Under that plan recidivism rates will be compared among groups under traditional parole, those released without parole supervision and those offered parole services on a voluntary basis. A ward grievance procedure has also recently been instituted and small law libraries have been set up in all institutions to encourage legal self-help efforts. Another new program gives wards the right to a hearing when charged with serious institutional rule infractions, especially those that might add time to their sentences.

In a more sweeping move, Director Breed announced last year that the department would no longer accept

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youngsters charged with acts that would not be criminal if committed by adults. That action grew out of the probation-subsidy program — a plan started in 1967 to channel state correctional money to counties as an incentive for them to keep less-serious offenders closer to home. The program was credited with causing a drop in the number of less seriously delinquent youngsters sent to the Youth Authority between 1967 and 1972. The impact of the new state policy, though, is still uncertain. The probation-subsidy program has been cut back because of inflation and is now operating with about one-third the funds originally intended. So counties have been sending increasing numbers of youngsters to the Youth Authority. Citing an increase in juvenile crime and new mandatory prison terms for certain offenses, Breed expects Youth Authority commitments to continue to rise.

The fate of those committed to the CYA for non-criminal acts before the new policy went into effect last April is also still in doubt. A special case-by-case review begun in December is to be completed early this year to identify those eligible for discharge. Until then, officials will not know how many youngsters now in institutions or on parole fall into the non-criminal category. In any event, release will not be automatic; the board will still consider the wards' over-all behavior and background before granting discharge — even though they would not now have been confined at all. Some of these may have worsened while institutionalized and, according to the department, others committed for non-criminal acts had been involved in criminal activity pre-dating their commitments. Daughtery says, "Some young people who come in for minor offenses are pretty disturbed, and probably their actions in the institution are far more difficult than anything that was demonstrated in the community. (This is a phenomenon which critics would argue says more about the institutions than the wards.)

Board changes

Changes are also taking place among the membership of the Youth Authority Board. Appointees of Governor Ronald Reagan are starting to be replaced by those of Governor Edmund G. Brown Jr. Three Brown appointees are now on the board and Breed is leaving this month. This change is expected to soften the hard-line stance that led to a steady increase in the length of average confinement terms since Reagan took office in 1967. (Breed attributes the increase to a higher concentration of serious offenders, however. Between 1967 and 1974, the average length of stay increased from 9.6 months to 12.3 months;

Who's who on the CYA board

The eight-member Youth Authority Board is chaired by the director of the Youth Authority, with members appointed by the Governor to four-year terms at salaries of $31,008. Present members:

Allen F. Breed, 55, outgoing chairman, appointed March 1968; present term expires this month; employee of the Department of the Youth Authority since 1945.

Richard W. Calvin Jr., 39, appointed May 1971; term expires in March 1976; administrative-hearing representative of the Youth Authority Board from 1969 to 1971; formerly employed by Southern California First National Bank, San Diego city manager and San Diego Police Department.

Leon S. Kaplan, 31, appointed last December; term expires in March 1979; former VISTA volunteer with San Francisco Neighborhood Legal Assistance; founded and directed Neighborhood Alternatives to Arrest, Detention and Imprisonment of Juveniles, and worked as staff attorney for San Francisco Youth Law Center.

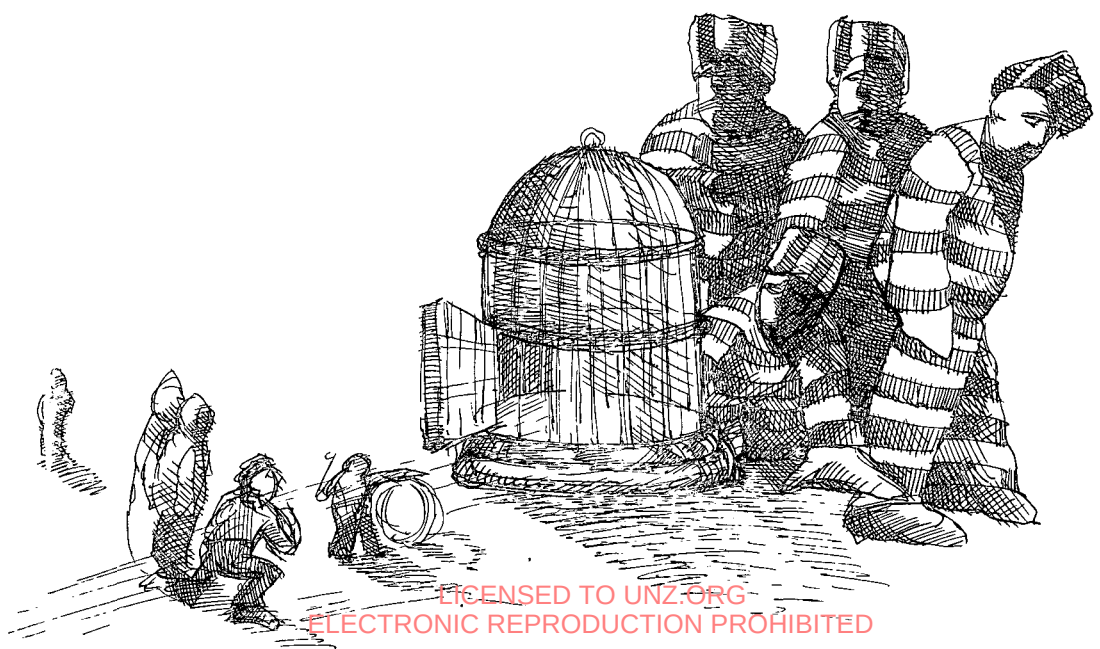
Maurine B. Crosby, 47, appointed August 1974; term expires March 1977; former member of the Amador County Board of Education and secretary of the Ione Merchants Association.

Paul A. Meaney, 45, appointed August 1973; term expires March 1977; former chief and executive officer of the division of fair employment practices in the state Department of Industrial Relations.

James F. Stratten, 62, appointed June 1974; term expires March 1978; former administrative representative of the board, chief of the state Division of Apprenticeship Standards, and board member (1969-1971); executive director of the Booker T. Washington Community Service Center in San Francisco, 1945 to 1967.

Pearl S. West, 53, appointed February 1975; term expires March 1978; former director, California Council on Crime and Delinquency; member, San Joaquin County Juvenile Justice Commission; and coordinator of community education for San Joaquin Delta College, 1969-72.

David Chambers, 47, appointed effective February 1st to a four-year term; formerly chief of the division of industrial safety in the state Department of Industrial Relations.



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Directory of CYA facilities

The California Youth Authority runs ten "locked" institutions and five conservation camps:

Preston School of Industry, Ione. A training school for 400 youths with an average age of 20; academic and vocational instruction with an "adjustment center" for disturbed inmates.

Northern Reception Center-Clinic, Sacramento. A diagnostic center for classification prior to placement; includes an intensive treatment unit for mentally disturbed youngsters — up to 250 boys and 60 girls.

O.H. Close School, Stockton. An academic and prevocational training school for 379 boys 13 to 16; basic approach is transactional analysis.

Karl Holton School, Stockton. An academic training program for 400 boys 16 and 17; wards are housed according to psychiatric "make-up"; behavior modification is used.

DeWitt Nelson Training Center, Stockton. A vocational training center for 400 older youths.

Southern Reception Center-Clinic, Norwalk. Diagnostic center for all male commitments from Southern California, currently 350 boys.

Youth Training School, Chino. Training program for boys 17 to 22 in institution maintenance and operation. Academic instruction leading to a high-school diploma. Individual and group therapy is included. Population: 1200.

Fred C. Nelles School, Whittier. Vocational training school with remedial academic instruction. Treatment method is behavior modification. Population: 560.

Ventura School, Camarillo. Reception and diagnostic center for all girls committed from Southern California. Also a coeducation academic and vocational training school for girls of all ages and boys 17 and older. Population: 550.

Paso Robles School, Paso Robles. Academic and vocational training school for youths 16 to 22. Population: 300.

The five Youth Conservation Camps are forestry camps for boys ages 17 to 21, with a median age of 18½. The work program includes fire fighting and forest protection. Individual and group counseling is emphasized. The camps: Ben Lomond Youth Conservation Camp, Santa Cruz, population 80; Mount Bullion Youth Conservation Camp, Mariposa, population 80; Pine Grove Youth Conservation Camp, Pine Grove, population 80; Washington Ridge Youth Conservation Camp, Nevada City, population 80; and Oak Glen Youth Conservation Camp, Yucaipa, population 80.

at the Preston School of Industry terms grew from 9.2 months to 18.

Perhaps indicative of a new philosophical bent, the board last August relaxed its rules to permit its decisions to be more easily appealed. It also allows parents now to be present at all hearings if the ward does not object. And other reform proposals are in the works.

One plan, scheduled for testing at the Youth Training School in Chino, would sever the link between treatment progress and release date by setting maximum sentences based on the commitment offense and any extenuating circumstances. During confinement, treatment would be available on a voluntary basis. And while effective use of the treatment programs would make a ward eligible for early parole, non-participants would not be penalized, as long as they exhibited good behavior. Legislation may be necessary to put this plan into effect.

Another reform under study is the increased use of half-way houses to ease a ward's transition to the outside world. Proposals for more community homes were ignored during the Reagan administration, and there are now only about 150 spaces in such facilities in California.

Breed maintains, however, that the real answer is to keep youngsters out of the system in the first place:

In the past we've tried so hard to help people that we've helped them right into San Quentin. We've taken little kids who never should have been in a correctional institution and, when they didn't respond, we kept them there longer until eventually they got contaminated by experiences with other kids with serious problems. Then we sent them back to the community and the community wouldn't tolerate them because of their stigma.
The answer is to just keep people out of the system. Spend $5,000 early when a kid first gets into trouble and save a lot of money and grief later.

Legislative reforms

The Legislature, too, has been working on reform. Measures passed in 1974 require the Youth Authority to set up local delinquency-prevention programs and youth-service bureaus to direct youngsters to needed services. Since no money was appropriated for those projects, little has been done beyond initial planning. But some federal funds have now been raised and a few youth-service bureaus will begin operation in 1976. Another measure aims at removing non-criminals from the juvenile-justice system while imposing stricter controls upon serious offenders. That bill — AB 2385 (Sieroty) — would also set up a system of community youth boards to refer youngsters to delinquency prevention programs and to handle cases of nonviolent first-offenders. It has yet to get out of the Assembly, however. [See "Juvenile Justice: Incarceration of the Innocent," *CJ*, August 1975.]

But the reforms likely to have the most significant immediate impact on the juvenile-justice system are those now taking place in the adult correctional system. Senate Bill 42 — the measure to abolish the indeterminate sentence for adults — passed the Senate by a vote of 36 to 1 and now awaits action in the Assembly. (The Adult Authority sought to impose the change administratively, but the state Court of Appeal ruled in January that the action violated state law.)

The concept of fixing wards' terms has the support of both Attorney General Evelle J. Younger and Breed who said, "I firmly support a fully determinate sentence structure — even for kids."

Whether or not the juvenile-justice system takes its cues from its adult counterpart, changes are coming to the Youth Authority. Crime is on the rise and the public is demanding protection — and even the most avid critics of the penal system defend the right of society to protect itself. The difficulty lies in finding a means to provide that protection more effectively and without making hardened criminals out of children.

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GENERAL SCHOBER'S MISSION: HUMANIZING THE NATIONAL GUARD

National Guard photos

By VONNIE J. MADIGAN

Question: What has 52,000 legs, unclogs traffic jams, fights nature's fires, floods and earthquakes, and finds lost campers?

Answer: The California National Guard.

That's right — the National Guard. The Guard is working to acquire a new public image — something other than plumbers, doctors, construction-workers and students earning points and pocket-money for patriotism, draft deferments from the U.S. Army, and storm-trooper stereotyping as protest-suppressors. The agent most responsible for the image-turnabout effort is Major General Frank J. Schober Jr. As its new chief, Schober has been shaking and moving the direction of the Guard since his appointment last May. And the change is coming not a moment too soon, because about one-third of the Guard's six-year enlistments — swollen in 1960 by draft-age males seeking to avoid combat duty in Vietnam — expire this year.

But, in Schober's eyes, a strong Guard remains important to the state in time of peace. "When disorder is going on in a mass scale," he explained, "the state has one good insurance policy. That's the National Guard."

Strike-breaking role

There are growing indications that the California Guard could become involved in future strikes by public employees. Chief executives in other states have called on the Guard to provide essential services halted by a walkout — such as collecting New York City's garbage. Schober said the Guard had assessed potential involvement in last year's strike by San Francisco's police and fire workers. "There is a military expression, 'you can be excused for losing but never for being surprised,' " Schober said. "We want to put twelve hundred military police at the disposal of the civil authority to help where needed. We want to be able to put those men on any street in California within 18 hours." This mission requires special training, but it does not include strike-breaking, Schober said. Governor Brown, he continued, "would be reluctant to interfere with any legitimate collective-bargaining process." Inserting the Guard into a local situation where there was loss of life or property damage would be something else and limited to that role, he said.

In the development stage is a thousand-man military-police force trained in riot control. The troops would have their training certified by the state police, with additional skills acquired for crowd control. The force, which would back up civilian authorities, would be air-mobile. "We feel that if there is a civil emergency of any sort putting in military police dressed in police uniforms will give a greater degree of acceptability than men in combat-troop uniforms with helmets," Schober said. Part of his redirection campaign is to change the "gorilla image" of the military.

The association of the National Guard with badly timed and poorly prepared intervention — the Kent State killings, for example — is under scrutiny. "It's difficult to break the stereotype," he said. "Because of television we saw all the terrible things that occurred at Kent State. Schober also cited studies about Guard involvement in Watts. "They were patrolling burned-out buildings," he recalled. "I think the time for the insertion of military forces is before the buildings are burning."

Although he wouldn't second-guess threatened disruptions by underground political groups and self-styled "guerrillas", Schober said he felt that "any use of force to enforce the law must be controlled very carefully and used with extreme care." And he added: "We want to let people know how much *good* we do and how much economic value we bring to the state."

The Guard is beefing up its emergency-preparedness

The author's previous articles in the Journal *have dealt with such topics as horse-racing and the state Chamber of Commerce.*

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and community-services capability, the Commander said. More air-search missions have been flown in recent months than in the last three years. In addition, the Guard participated in the massive effort to control the fires that plagued Southern California forests and foothills last summer. Schober's staff is also "worst-casing" possible disasters relating to earthquakes, fires and floods to identify Guard roles and potential action, as well as planning to assist in traffic control and provide for medical support and temporary shelter in emergencies.

Recruitment policy

Faced with 1976's potential exodus of personnel, Schober is seeking ways of improving the Guard's retention rate in hope of keeping 40 percent of those whose six-year enlistment will be expiring. Doing so will require making the training interesting, he said, and his plans include:

"Humanizing" the Guard by drawing in more women and minorities and letting females participate more fully — including in combat tactics. (He has a female public-information officer, the guard's first female staff-level member, in Arden McConnell.)

Emphasizing community relations, strengthening the Guard's recruitment base.

Changing attitudes by initiating "set-to's" with middle-rank leadership on how subordinates are treated.

Establishing exchange programs with other states and branches, including an exchange with the Hawaii National Guard and experimental work for the Department of Defense.

Improving training by cutting down on "make-work" and increasing the use of individual talents and learning-by-doing. Guard pay is already relatively good, Schober said. A corporal with two years in can make $982 for 39 days' training a year, and a first lieutenant with two years earns $1,769. And Schober would like to sweeten that attraction by opening Cal-Vet housing loans with their subsidized interest rates to Guard personnel with six years in. (Governor Brown has yet to commit himself on such an amendment to state law.)

Economic effect

The state annually collects more in money on taxes paid on federal salaries than it gives back. A recent study on the impact of the Guard on the state's economy noted that the federal government invested more than $76.5 million in the California economy through military pay, including the pay of the 24,733 California Army and Air National Guards. The state Franchise Tax Board estimated that between $3-4 million dollars of state income tax was generated as a result of the National Guard's payroll. These figures don't include the effect of expenditures in the state for fuel, rations, transportation and medical services.

In its $111 million budget, the Guard supports 140 training bases and four air bases and offers a variety of community services. With Washington paying 95 percent of the "premium", the state's "insurance policy" on civil peace is in line with the Governor's fiscal thinking, Schober believes. "After all, he is an advocate of getting the maximum bang for the buck," the Commander said.

Link with Brown

One obvious change in the role of the Guard has been the Governor's vigorous interest. Brown was the first governor in 25 years to visit troops during summer training. Much of this is due to Schober's personal relationship with Brown, whom he has known since both were college undergraduates. A native of Los Angeles but raised in Lodi, Schober graduated with honors from the University of Santa Clara in 1956 and was commissioned as a Regular Army officer. It was in his senior year at Santa Clara that Schober, a dormitory counselor, met Edmund G. Brown Jr., then a freshman. Since, Schober has earned a master's degree in public administration from Harvard, staying an additional year to study the Middle East, and returned to California last year with 19 years in the U.S. Army, including a tour as battalion commander in Vietnam. He holds a permanent U.S. Army rank of colonel. His state military rank of general is set by law and carries a salary of $34,896 yearly. Now, he considers himself "very much a guardsman".

Governor's view

Schober, with his Santa Clara connection to the Governor, was first recommended for the Guard position by Marc Poché, Brown's director of programs and policies. "You don't only need someone who is competent militarily but also someone who pretty well knows how you think," Poché said of Schober's appointment. And Schober's judgment has Brown's confidence, a factor that may have eased fears within the Guard of cutbacks under the new administration. Said the Commander: "I see the Governor as a supporter of military values in a democratic society." Poché put the Guard's role this way: "The Guard is the tool of the Governor to meet the 'Atticas'. You don't know what you're going to have on the streets of Milpitas or Los Angeles. You need all the tools you can get."

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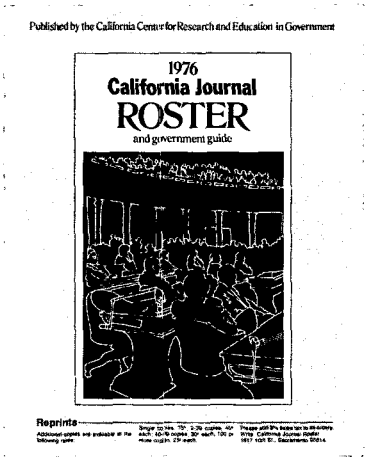

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THROWING THE RASCALS OUT

Undertaking the tough task of bouncing a local official

By JOSEPH GEORGES

On March 4, 1975, recall elections were held in two widely separated areas of California: Marin County and Pasadena. In Marin County, voters in the Tamalpais Fire Protection District removed from office three members of its governing board. In Pasadena, three school board members opposed to a mandatory busing program survived an attempt by a parent-teacher group to unseat them. Nor were these recall elections isolated cases. At least 20 local recall elections were held in California between April 1973 and April 1975, and more than one-half of them succeeded.

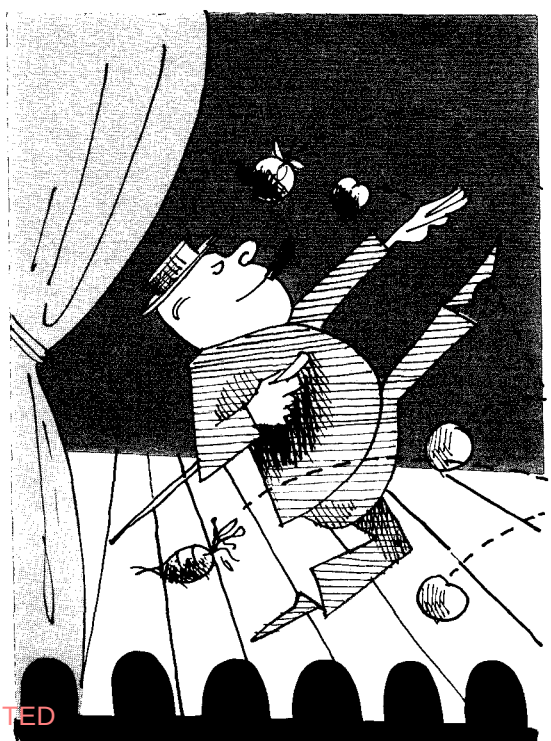
Voters -- even very angry voters — are usually reluctant to undertake a recall campaign. Even when there is strong justification for a recall, there may still be good reasons to wait for the next regular election to throw the rascals out. For one thing, it's a lot of work to gather the signatures of enough registered voters (25 percent in general-law cities) to call a special election. And recall campaigns can be extraordinarily divisive — especially in smaller communities. The resulting animosity may breed continuing strife and even counter-recalls — as in the Riverside County town of Coachella, where the recall of the mayor in 1972 triggered another recall the next year that tried unsuccessfully to remove both the new mayor and the city clerk (who was charged with having displayed favoritism during the first recall).

Recall issues

In the face of all this, what issues cause recall elections? The grounds officially presented for a recall don't always fully explain why a recall has been undertaken. Sometimes the accusations published seven days before recall petitions can be circulated are left deliberately vague. Voters in the high-desert community of Adelanto, for example, were asked to sign petitions charging two City Council members with repeated demonstrations of "culpable indifference to official duties". No details were provided, however, which brought one of the accused to complain, "I joust at windmills for lack of knowing exactly of what crime I am accused." (She was recalled anyway, along with her colleague.) In most cases, though, the stated grounds and published reasons for recall are more explicit and tend to emphasize a number of certain basic themes, including unresponsiveness to constituents, ineffective administration, and misbehavior in office.

Unresponsiveness. Lack of responsiveness on the part of elected officials is a frequently made charge in recall campaigns. In one 1973 recall, a San Bernardino council member was accused of failing to see that his district received its share of public improvements. In a number of instances, city officials have been charged with unresponsiveness on issues of development and redevelopment. The removal of three members of the Corte Madera town council in Marin County, for example, seems to have been inspired mainly by a fear of over-development. The mayor was also accused, in the recall notice, of refusing to act on requests "for an open-space bond issue to preserve the valuable natural assets of the town while such action is still possible." In Hermosa Beach and Rosemead, in Los Angeles County, redevelopment programs were condemned for inadequate citizen participation in their creation as well as for the possibility that residents would be forced out of their homes. Once the recall drive was under way in Hermosa Beach, the city council decided to submit the question of redevelopment to an advisory referendum, a move that thwarted the recall attempt but subsequently led the council to drop the program after the referendum went against redevelopment. In Rosemead, a council majority spurned the suggestion of a similar referendum, which brought a recall campaign against the council's leading redevelopment enthusiast, who was removed from office in January 1975.

Recall elections in small cities and towns receive little or no statewide publicity, and this can contribute to a false sense of security among local officials. The relatively infrequent recall elections in large cities get more attention, such as the one held, unsuccessfully, in the City of Los Angeles in March 1974, when Arthur Snyder, a councilman from the city's 14th District, survived a special election prompted by a recall campaign mounted in parts of his reapportioned district heavily populated by Mexican-Americans, who considered



The author teaches political science at El Camino College in Torrance.

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Snyder indifferent to their problems.

Ineffective administration. Recall movements frequently cite unsatisfactory dealings with staff personnel as a reason for removing elected officials. In the Southern California cities of Colton and Los Alamitos, for example, public reaction to the dismissal of city managers was a factor in successful recalls. In the San Joaquin Valley town of Huron, a group of citizens tried unsuccessfully to unseat a council member accused of being the instigator in the firing of chief of police. And in Plumas County, voters removed the superintendent of schools for mishandling a one-day teachers' strike and ineffective "public relations" generally.

Misbehavior in office. A third type of recall accusation focuses on alleged "misbehavior in office." While the phrase may suggest acceptance of a bribe or theft of public funds, such crimes have not been made an official ground for recall in recent years. But twice in 1973 city-council members were recalled primarily on the basis of misbehavior. In Escondido, Wilfred Mason was charged with conducting since his election "a seven-month display of arrogance, belligerence, reprisals and demonstrations of raw power". In Berkeley, D'Army Bailey, elected to the council in 1971 on the radical April Coalition ticket, was also removed from office because, according to the recall proponents, "contrary to the basic democratic principle that elected officials must be allowed to discuss, debate, and vote on issues, [he] has staged wild, obscene outbursts in city-council meetings, in admittedly deliberate efforts to stop the progress of Berkeley city government." Bailey's behavior led to critical delays in budget adoption and setting of the municipal property-tax rate, and "vilification and attack designed to force competent and trained City personnel to resign." Bailey, a Black, based his defense on his achievements while a member of the council — measures, such as a stronger minority-hiring program, often aimed at promoting the Black community's interests.

Some objections

Of these three general grounds used in recent years, "unresponsiveness" is the most debated by students of government, especially when the unresponsiveness charge derives from a single, major policy dispute between constituents and elected officials. The argument against this use of the recall is that the public good may require leaders to adopt unpopular policies — policies whose beneficial effects may not be apparent for months or even years. Regular elections provide an opportunity to overturn bad policies, it is argued, and the initiative and referendum are available where faster and more direct popular action is required.

Nonetheless, half of the recalls mentioned (and in two others during the same period in the Marin County town of Cotati and the Mojave Water Agency) originated in disagreements over specific policies. In some cases, policy disputes have escalated into conflicts over how well offices are generally being handled by their incumbents. In other cases, where no incompetence or misbehavior charges were made, alternatives to recall such as regular elections, the initiative, or the referendum may not be effective. A policy that will produce profound and irreversible changes in a community — routing a freeway through a city, for example — may need to be reversed before regular election. Also, the initiative and referendum are not always legally possible to use. The adoption of a community-redevelopment program, for instance, is considered to be an administrative act, not a legislative one, and thus not subject to referendum through the petition process. (A city council can, if it chooses, submit its program to an advisory vote of the people, as was done in Hermosa Beach; the authorities are under no obligation to be guided by the results, however.)

So it isn't easy to build a persuasive argument against all recalls based on policy decisions or to discourage their use in practice. Debate about the proper use of the recall will go on, however, because it is part of the larger, continuing debate about how to secure effective and responsible government. Meanwhile, there is little indication that Californians will change their recent pattern of enthusiasm for local recalls.

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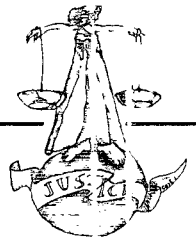


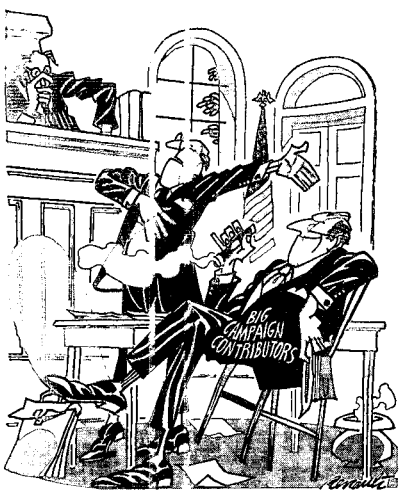
SIGNIFICANT COURT ACTIONS

Confusing wake of election ruling

It remains to be seen what all the California ramifications will be of the United States Supreme Court decision January 30th striking down several elements of the Federal Election Campaign Act of 1974. Already, the State Fair Political Practices Commission has conceded that there is now no limit on how much may be spent on a ballot-proposition campaign. And it is probable that, as a result of the *Buckley v. Valeo* ruling, there will also be no spending limits in future statewide campaigns. Another crucial question still to be answered: Do the limits still apply on qualifying an initiative for the ballot in California?

One of the main reasons why it will take lawyers quite a time to unravel the complex decision is that the state and federal laws are far from identical and there were five partial dissents to the theoretically unanimous Supreme Court ruling. In some ways, the decision raised more questions than it answered, and Senator Alan Cranston of California has indicated that it may produce "chaos" rather than order in elections. Here are the basic elements in the decision:

- *Limits upon the amount an individual or a committee may give a candidate are legal. But there may be no limit to the amount a campaign may spend - unless a candidate accepts public funds and then the limit applies. This ruling involved the presidential election primarily.*
- *There is no limit as to how much a candidate may spend on his or her own campaign. Previously, a presidential candidate could only spend $50,000 in personal funds.*
- *Pandora's box was opened with a ruling that there is no limit to how much any individual may spend on a campaign so long as the money is not controlled by the candidate or there is no coordination between candidate and contributor. This was based on the theory that a limit on independent campaigning is an infringement of free speech. This could open the door to the return of fat-cat spending, according to some critics, and it also removes the element of candidate responsibility for the content of media advertising.*
- *The court also ruled that the eight-member commission created to oversee the federal act must be disbanded or reconstituted because the members were appointed by Congress, not the President.*



'Your honor, my client believes that campaign spending limitations are a curb on free speech because everybody knows money talks!'

Hard-core decision

The state Supreme Court, in a 5-2 decision, upheld California's basic obscenity law against a charge that it is unconstitutionally vague. In *Bloom v. Municipal Court,* Noel Bloom was attempting to prevent a trial on a charge that he had distributed obscene films. The high court affirmed a Los Angeles Superior Court ruling that he should stand trial.

The statute defines obscene matter as "matter, taken as a whole, the predominant appeal of which to the average person, applying contemporary standards, is to prurient interest, *i.e.,* a shameful or morbid interest in nudity, sex, or excretion; and is matter which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters; and is matter which taken as a whole is without redeeming social importance."

The majority opinion by Justice William P. Clark Jr. said it is clear that the statute prohibits only hard-core pornography, and that nudity is not obscene. "To constitute obscenity ... the material must contain a graphic description of sexual activity," he wrote, and because of these restrictions the statute is not unconstitutionally vague. He was joined by Justices Marshall McComb, Raymond Sullivan and Louis H. Burke (sitting on assignment). Chief Justice Donald R. Wright filed a concurring opinion expressing "some reluctance and . . . a considerable feeling of futility" because the subject of what is pornography is changing rapidly in our society.

Justice Mathew O. Torbiner, joined by Justice Stanley Mosk, wrote a dissenting opinion stating that the statute is an "unwarranted interference . . . with the individual's fundamental right to speak, to read and to view freely".

Right to silence

In an important 4-3 decision, the state Supreme Court ruled that a statement obtained illegally from a criminal suspect cannot be used in court to show he was lying. The decision overturns a two-year-old opinion of the same court and clashes with a 1971 U.S. Supreme Court decision.

The rulings stem from the 1963 federal *Miranda* case granting a suspect the right to remain silent while being questioned by police. In *People v. Disbrow,* the court reversed convictions of Robert Disbrow stemming from the shooting of his estranged wife, Harriet and her friend, Kathleen Pairis. Disbrow himself was shot five times during an argument at Pairis' Van Nuys home. While Disbrow was being taken from an emergency room, a detective used a hidden recorder to tape a conversation with the suspect. Disbrow had stated he wished to remain silent, and the detective continued asking questions after telling Disbrow that his statements could not be used in court. At the trial, Disbrow said he shot in self defense. The prosecution then was allowed to introduce inconsistent statements made to the detective for purposes of impeaching the witness's credibility.

The majority opinion, written by Mosk, said the evidence was just as inadmissable for impeachment under *Miranda* as for purposes of affirmative evidence. Mosk said it would be impossible for a jury to consider the evidence solely for judgment of the defendant's veracity. Mosk was joined by Tobriner and Sullivan. Wright wrote a concurring opinion.

In a dissent concurred in by McComb and Clark, Justice Frank Richardson contended that the state should observe the federal court rule authorizing use of such testimony for impeachment of credibility.

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The Great Aerosol Controversy

It starts out as a simple, familiar story: the needs of the environment versus the needs of the economy. But before you can say *p-s-s-s-t!* there's more — controversies involving health, safety and consumer protection, a bit of a jurisdictional dispute, organizational inorganization and, inevitably, public bafflement. And there you have the Great Aerosol Controversy, visible in California in the form of legislation to ban the use of certain widely used aerosol propellants.

The dispute over the possible threat to the environment posed by fluorocarbons escaping into the atmosphere from spray cans is not new, but it heated up considerably in the last 20 months with publication of findings that the wayward molecules — thought to be inert — may be damaging the ozone layer that shields the Earth from much harmful ultraviolet radiation. The theory emerged in June 1974, when two University of California chemists, Mario Molina and F. Sherwood Rowland, reported that the molecules were being bombarded in the stratosphere by high-energy ultraviolet rays, which were causing them to split, releasing chlorine atoms. These, the chemists hypothesized, could be depleting the ozone, a form of oxygen, and thereby increase the amount of radiation reaching Earth. Were this to happen, the incidence of skin cancer would sharply increase and the planet's climate would change, affecting crops and wildlife. In December, a UC agricultural economist, Andrew Schmitz, estimated that a drop in temperature of 3 degrees centigrade would cause a 30 percent reduction in the world's wheat supply by shortening the growing season in such key grain-producing countries as Canada and the Soviet Union.

Economic impact

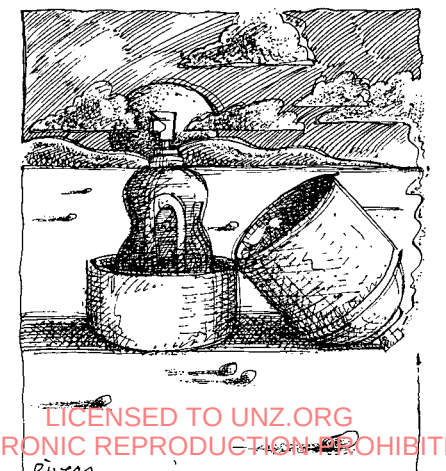
It's not a theory that anyone is eager to prove — not least the manufacturers of fluorocarbons (principally Du Pont, Allied Chemical, Union Carbide, Pennwalt, Kaiser Aluminum and Chemical, and Racon). The fluorocarbon industry, according to the United States Department of Commerce, generates some $425 million in annual sales at facilities valued at $300 million. But, so far, the theory is far from disproved.

Last December, Pierre J. Ausloos, a chemist with the National Bureau of Standards, revealed that tests have "proved beyond any doubt" that the chlorine atoms are produced when a particle of light called a photon is absorbed by a fluorocarbon molecule.

The fluorocarbon industry has been active in defending itself, calling for further studies before outlawing a major industry. An industry-sponsored position paper states: "The questions aren't just whether the theory's general premises are valid, but also whether the magnitude of any ultimate effect is meaningful to the quality of the environment and public health." Now, research is being done on many levels in a variety of agencies — including work sponsored by the industry itself.

But a movement to ban use of the propellants in spray cans has grown rapidly. Two bills to prohibit their use in California were introduced last year, and one of these — AB 1725 by Assemblyman John Vasconcellos — has been passed by the Assembly, 41 to 28, and faces an uncertain future in the Senate. The other, SB 217 by Senator John Dunlap, was killed last year in the Senate Finance Committee, where opposition forces concentrated their efforts.

Basically, opponents stressed the theoretical nature of the Molina-Rowland findings. As Paul McAmis of the California Manufacturers Association put it: "We would consider any legislative action based merely on hypothesis to be . . . highly premature." And much was made of the economic consequences of an aerosol ban. Supporters of the ban observed that waiting for definite proof might lead to irreversible damage to the ozone shield. Said one supporter of the opposition: "They accused us of using 'doomsday tactics' [on the environmental issue], but what's more 'doomsday' than predicting big economic problems?"



When the Dunlap bill died, Assemblyman Vasconcellos introduced his measure, AB 1725. And Senator Dunlap is prepared to introduce new legislation if AB 1725 runs into trouble. The bills called for a ban on the manufacture and sale in California of any container using the fluorocarbon propellants known as fc-11 and fc-114 after July 1976. After January 1977, the use and sale of the propellants themselves would be prohibited. The measures also would require the director of the state Department of Health to appoint a seven-member commission to study the health problems generated by the aerosols and report to the Legislature by January 1978.

Public opinion

Meanwhile, the industry itself has begun to convert spray cans to other means of propulsion such as manual pumps. Public relations and marketing being the subtle game they can be, those withdrawing from the aerosol market now can make a selling point of their move — stressing that consumers get more product, not propellant, in their brands. By not waiting to be forced to change, the industry can make what appeared to be inevitable look like a deliberate, even self-sacrificing, choice.

An example of adopting a strategic withdrawal from the field came in Oregon, where the legislature passed an anti-aerosol measure not quite as sweeping as the California proposals. While the bill was awaiting the governor's signature, the industry prepared to phase itself out of the Oregon market. Few would hang on until the deadline contained in the new law.

California constitutes a much larger market than Oregon, of course, and probably would not be surrendered so readily. But the point remains that if a product's public image deteriorates sufficiently that knowledge can have as much effect on marketing as legislative action. Thus, the key element in California's version of the Great Aerosol Controversy may well be public opinion.

Research for this article was contributed by Laura King, a student at the University of California in Davis, under the Journal's *internship program.*

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Nowhere to go but up

The opening weeks of the 1976 legislative season were marked with two major failures. The state's new Agricultural Labor Relations Board needed an injection of new funds to remain in full operation, but a coalition of Republicans and farm-area Democrats refused to approve an appropriation unless significant changes were made in the basic law creating the board. Governor Brown and Democratic leaders refused to accept any revisions, and the board was forced to lay off most of its employees in early February. The other issue was medical malpractice, with doctors pressing for a legislative solution to ever-increasing insurance rates. The physician-sponsored bill, involving a state-operated insurance pool, was advanced by Senator Alfred Song. But Assembly Speaker Leo T. McCarthy, still smarting from an end run around him by doctors last year, vowed to fight the measure. McCarthy's opposition was based on the claim that the Song bill would produce a massive debt.

The legislative failures prompted an announcement of a boycott by Cesar Chavez' United Farm Workers against products of growers Chavez claims are responsible for blocking continued funding of the collective-bargaining board. And doctors at first reacted to the malpractice defeat by indicating that they would mount an initiative campaign to, among other things, eliminate jury trials for malpractice cases. But California Medical Association delegates voted to delay the effort at least until 1978 because of the cost, time pressure in getting signatures for the November ballot and fears the measure would fail because of a lack of support for the doctors' cause.

A peaceful interlude?

On the environmental front, a major agricultural land-use bill, AB 15 by Assemblyman Charles Warren, cleared the Assembly but faced a difficult future in the Senate. Several bills were introduced to put the major features of the California Coastal Plan into law, with Senator Anthony Beilenson the author of the key measure.

For the first time in several years, lawmakers were meeting without an undercurrent of unrest caused by leadership contests. McCarthy solidified his control over the Assembly and even appointed his prime rival, Willie Brown, as chairman of the revenue and taxation committee. The post became vacant after John Foran announced his candidacy for the state Senate, and Dan Boatwright moved up from revenue and taxation to succeed Foran as head of the powerful ways and means committee.

SENATE (24D, 15R)

	SB 575	SB 627	SB 778	SB 1104	SB 1288	SB 1292	SCA 27	SB 215	SB 502	SB 620	SB 994	SB 1258	SB 1324	SB 397	SB 204	SB 218	SB 676	SB 1115
Alquist (D)	Y	*	N	Y	N	N	N	Y	Y	Y	Y	*	Y	N	N	Y	Y	N
Ayala (D)	Y	Y	Y	Y	N	Y	N	Y	Y	Y	Y	N	*	Y	N	Y	Y	Y
Behr (R)	Y	Y	*	Y	Y	Y	N	N	N	Y	Y	Y	*	N	Y	Y	Y	N
Beilenson (D)	Y	Y	*	N	Y	Y	N	*	*	Y	N	Y	Y	N	Y	Y	Y	N
Berryhill (R)	Y	N	*	Y	Y	N	Y	N	Y	*	*	*	Y	Y	N	Y	*	*
Carpenter (R)	Y	N	*	Y	Y	N	Y	Y	N	N	N	N	Y	Y	N	Y	*	Y
Collier (D)	Y	Y	N	Y	N	N	*	Y	*	Y	*	N	Y	Y	Y	N	Y	Y
Cusanovich (R)	Y	Y	*	Y	*	N	Y	Y	N	N	N	N	Y	Y	N	Y	Y	Y
Deukmejian (R)	Y	Y	Y	Y	Y	N	Y	N	*	Y	N	N	Y	Y	N	Y	Y	N
Dills (D)	Y	*	Y	Y	N	Y	N	Y	Y	Y	Y	N	Y	Y	N	Y	Y	N
Dunlap (D)	Y	Y	Y	*	N	Y	N	Y	N	N	Y	*	N	N	Y	N	Y	N
Garcia (D)	*	*	Y	Y	N	Y	N	*	Y	Y	*	N	Y	N	Y	*	Y	Y
Greene (D)	Y	Y	Y	Y	*	Y	N	Y	*	Y	Y	*	N	N	Y	*	N	Y
Gregorio (D)	Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	N	N	N	Y	Y	N	Y
Grunsky (R)	*	Y	*	Y	Y	N	Y	N	Y	*	N	Y	Y	*	N	Y	Y	N
Holden (D)	Y	Y	Y	*	N	Y	N	Y	*	Y	Y	N	Y	N	Y	Y	N	*
Holmdahl (D)	Y	Y	Y	Y	N	Y	N	Y	N	*	N	N	Y	Y	N	Y	Y	N
Kennick (D)	Y	*	N	Y	N	Y	Y	Y	Y	Y	N	N	Y	N	Y	Y	N	Y
Marks (R)	*	Y	Y	N	N	Y	*	*	*	Y	*	Y	*	N	Y	*	*	N
Mills (D)	*	*	*	Y	N	Y	N	*	*	*	N	Y	Y	Y	N	Y	Y	N

	SB 575	SB 627	SB 778	SB 1104	SB 1288	SB 1292	SCA 27	SB 215	SB 502	SB 620	SB 994	SB 1258	SB 1324	SB 397	SB 204	SB 218	SB 676	SB 1115
Nejedly (R)	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	*
Petris (D)	*	Y	Y	Y	N	Y	*	N	Y	*	N	Y	*	N	N	Y	Y	Y
Presley (D)	Y	Y	Y	Y	N	*	N	N	Y	Y	N	Y	N	N	Y	Y	Y	N
Rains (D)	Y	*	Y	Y	N	Y	*	Y	N	Y	Y	N	Y	N	Y	Y	Y	N
Richardson (R)	Y	N	Y	Y	Y	N	Y	N	Y	Y	N	N	Y	Y	N	N	*	*
Robbins (D)	Y	Y	Y	Y	*	Y	*	Y	*	Y	*	Y	N	Y	Y	Y	N	Y
Roberti (D)	Y	Y	Y	Y	N	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Rodda (D)	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Russell (R)	Y	N	*	Y	N	Y	Y	Y	Y	N	N	N	Y	Y	Y	N	N	N
Schrade (R)	Y	Y	Y	Y	*	N	*	N	Y	N	N	N	Y	Y	N	N	N	Y
Smith (D)	Y	Y	Y	Y	N	Y	N	Y	N	N	Y	Y	N	N	Y	Y	Y	N
Song (D)	*	*	Y	N	N	Y	N	*	Y	*	Y	Y	*	N	N	Y	*	Y
Stevens (R)	Y	Y	Y	Y	N	N	Y	Y	Y	*	N	N	*	Y	N	*	Y	Y
Stiern (D)	Y	Y	Y	Y	N	N	Y	N	N	Y	N	N	*	Y	N	Y	N	Y
Stull (R)	Y	N	*	Y	Y	N	Y	N	Y	Y	N	N	Y	*	N	Y	Y	N
Way (R)	N	N	Y	Y	Y	N	Y	N	Y	Y	N	*	Y	Y	N	N	N	*
Wedworth (D)	*	*	Y	Y	Y	*	N	Y	Y	N	N	N	Y	N	Y	Y	N	Y
Whetmore (R)	*	N	Y	*	Y	*	Y	*	Y	Y	*	N	Y	N	Y	N	N	Y
Zenovich (D)	Y	Y	N	Y	N	*	N	Y	Y	*	*	*	Y	N	Y	N	N	Y
(one vacancy)																		

Senate

SB 575 (Robbins) — Requires county hospitals to give rape victims free venereal-disease and pregnancy testing; requires peace officers to receive training in the investigation of rape cases. Passed 30-1.

SB 627 (Behr) — Makes convicts eligible for workmen's compensation benefits for injuries arising out of assigned employment. Passed 24-7.

SB 778 (Roberti) — Makes it unlawful to kill an animal in the production of a motion picture. Passed 26-4.

SB 1104 (Robbins) — Imposes mandatory prison sentence on anyone convicted of a felony involving a concealed firearm. Passed 33-3.

SB 1288 (Russell) — Allows individual to refuse to join a labor union if it would be against his or her religious belief to do so. Failed 14-21.

SB 1292 (Roberti) — Appropriates $3.8 million for continued operation of the Agricultural Labor Relations Board. Failed 20-15 (27 votes required).

SCA 27 (Carpenter) — Proposed constitutional amendment denying public employees the right to strike. Failed 14-19.

SB 215 (Alquist) — Prohibits governmental agencies from erecting new buildings starting in 1977 without energy certification. Passed 23-11.

SB 502 (Berryhill) — Exempts certain projects from environmental-impact-report requirements. Passed 24-9.

SB 620 (Way) — Creates a state Commission on Planning and Intergovernmental Relations to study areas of critical environmental concern. Passed 25-7.

SB 994 (Alquist) — Proposed $150 million bond issue for purchase of streamside

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ASSEMBLY (55D, 25R)

	AB 841	AB 1725	AB 2159	AB 1284	AB 1483	AB 820	AB 2443	AB 2026	AB 2190	AB 2538	AB 15	ACA 2	AB 1881	AB 2346	AB 2445	AB 337	AB 1047	AB 150	AB 1667	AB 1896
Alatorre (D)	N	N	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	N	N	N	Y	*	Y	Y	Y
Antonovich (R)	Y	N	Y	N	N	N	Y	N	N	N	N	N	Y	Y	N	N	Y	N	N	N
Arnett (R)	Y	Y	Y	Y	*	N	Y	Y	N	N	N	Y	Y	Y	N	N	Y	*	*	*
Badham (R)	N	N	Y	N	N	N	N	Y	N	N	N	Y	Y	Y	N	Y	*	Y	N	N
Bane (D)	N	Y	Y	Y	Y	*	Y	Y	Y	*	N	Y	Y	Y	*	Y	Y	*	Y	Y
Bannai (R)	*	N	*	Y	N	N	N	Y	Y	N	N	Y	Y	Y	*	Y	N	*	Y	N
Berman (D)	Y	Y	*	Y	Y	Y	N	Y	Y	Y	N	N	Y	N	N	Y	N	Y	Y	Y
Beverly (R)	Y	N	N	Y	N	N	Y	Y	N	N	N	Y	Y	Y	Y	*	N	Y	N	N
Boatwright (D)	Y	N	Y	N	Y	N	*	Y	*	Y	N	Y	N	Y	Y	Y	Y	Y	Y	Y
Briggs (R)	*	N	Y	N	N	N	Y	N	N	N	N	*	Y	N	N	N	N	*	N	Y
Brown (D)	N	Y	N	Y	Y	Y	Y	Y	*	Y	N	N	N	Y	N	*	Y	*	Y	Y
Burke (R)	*	N	Y	N	N	N	*	*	N	N	N	Y	N	*	N	Y	N	*	N	N
Calvo (D)	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	N	N	Y	Y	N	N
Campbell (R)	Y	N	Y	*	*	N	*	N	*	N	N	N	Y	N	*	Y	*	*	*	*
Carpenter (D)	Y	Y	Y	Y	Y	N	Y	Y	*	Y	N	Y	Y	Y	N	N	Y	Y	Y	Y
Chacon (D)	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	Y	Y	Y	Y	*	*	N	*	Y
Chappie (R)	*	*	Y	*	N	N	N	Y	N	N	*	N	*	*	N	*	N	*	*	N
Chel (D)	N	N	N	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Chimbole (D)	N	N	Y	N	N	N	N	*	N	N	N	Y	Y	Y	Y	N	Y	N	*	N
Cline (R)	Y	N	Y	N	N	N	N	N	N	N	N	Y	N	Y	N	Y	N	N	Y	N
Collier (R)	N	N	Y	Y	N	N	Y	N	N	N	Y	Y	N	N	Y	N	N	N	Y	Y
Craven (R)	N	N	Y	*	*	N	N	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Cullen (D)	N	*	N	Y	Y	*	Y	*	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Davis (D)	N	N	N	N	N	*	*	*	N	Y	N	N	N	Y	Y	Y	N	Y	*	N
Deddeh (D)	Y	Y	N	*	*	N	N	Y	N	Y	*	Y	N	*	*	*	*	Y	Y	Y
Dixon (D)	Y	N	*	Y	Y	Y	*	Y	*	*	Y	Y	N	N	Y	Y	*	Y	Y	Y
Duffy (R)	*	N	Y	N	N	Y	N	N	N	Y	N	*	Y	N	*	N	Y	*	N	N
Egeland (D)	N	Y	N	N	Y	Y	Y	Y	*	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Fazio (D)	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Fenton (D)	N	Y	N	Y	Y	Y	*	Y	Y	N	N	Y	Y	Y	*	N	Y	Y	*	Y
Foran (D)	Y	Y	*	Y	Y	Y	N	*	Y	*	Y	N	Y	Y	N	Y	Y	Y	Y	N
Garamendi (D)	N	Y	N	Y	Y	Y	Y	Y	N	N	Y	Y	N	N	Y	Y	Y	N	*	N
Goggin (D)	N	Y	*	Y	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y
Greene (D)	N	*	N	*	*	Y	N	Y	N	Y	Y	*	Y	Y	Y	Y	Y	N	*	N
Gualco (D)	Y	Y	N	Y	*	N	N	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	N	Y
Hart (D)	N	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Hayden (R)	Y	Y	N	*	N	*	Y	*	Y	Y	N	Y	Y	Y	*	Y	Y	*	Y	Y
Hughes (D)	N	Y	*	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	Y	*	Y	Y
Ingalls (D)	Y	Y	Y	*	N	Y	Y	Y	N	Y	Y	Y	N	Y	Y	*	N	Y	N	N
Kapiloff (D)	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Keene (D)	N	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Keysor (D)	Y	N	*	Y	Y	Y	*	Y	Y	Y	*	Y	Y	Y	*	Y	Y	Y	Y	Y
Knox (D)	Y	Y	*	Y	Y	Y	*	Y	Y	Y	*	N	Y	Y	*	Y	Y	Y	N	Y
Lancaster (R)	Y	N	Y	Y	N	N	*	*	N	N	N	Y	Y	Y	N	N	Y	Y	*	N
Lanterman (R)	Y	N	Y	N	N	N	N	Y	N	Y	N	Y	Y	Y	Y	N	N	Y	*	N
Lewis (R)	Y	N	Y	*	*	*	N	Y	N	N	N	Y	Y	Y	Y	Y	N	Y	N	N
Lockyer (D)	N	Y	N	Y	Y	*	Y	Y	Y	Y	N	N	N	N	Y	Y	Y	Y	Y	Y
MacDonald (D)	Y	N	Y	Y	*	N	N	Y	Y	Y	Y	*	Y	Y	Y	Y	*	Y	Y	N
Maddy (R)	Y	Y	Y	Y	Y	N	Y	Y	N	N	N	Y	Y	Y	Y	N	Y	Y	*	Y
McAlister (D)	Y	*	N	N	N	N	Y	N	N	N	Y	Y	N	Y	Y	Y	N	*	N	Y
McCarthy (D)	Y	Y	Y	Y	Y	Y	*	Y	Y	Y	Y	N	Y	Y	*	Y	Y	*	Y	Y
McLennan (R)	Y	N	*	N	N	N	N	N	N	N	N	Y	N	*	N	Y	N	*	N	N
McVittie (D)	N	N	Y	Y	N	Y	*	N	Y	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y
Meade (D)	N	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	*	*	Y	Y	*	*	*
Miller (D)	Y	Y	N	Y	Y	Y	*	N	N	Y	N	Y	Y	Y	*	N	Y	*	Y	N
Mobley (R)	Y	N	Y	N	*	N	Y	*	N	N	N	Y	Y	Y	Y	*	N	*	*	N
Montoya (D)	Y	Y	N	Y	Y	N	N	Y	*	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y
Mori (D)	Y	Y	*	*	*	N	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y
Murphy (R)	*	N	Y	N	N	*	N	*	*	N	N	Y	Y	Y	N	N	Y	N	*	N
Nestande (R)	N	Y	N	Y	Y	N	N	Y	Y	N	*	Y	Y	Y	N	*	Y	Y	Y	N
Nimmo (R)	Y	N	*	N	N	N	*	N	N	Y	N	N	Y	Y	N	N	N	Y	Y	Y
Papan (D)	Y	*	Y	Y	Y	*	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Perino (D)	N	Y	N	Y	Y	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Priolo (R)	Y	N	*	N	N	N	N	N	N	N	Y	N	Y	Y	N	Y	N	*	N	N
Ralph (D)	N	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	N	*	*	*	*	Y	Y	Y	Y
Robinson (D)	N	N	Y	N	N	N	Y	Y	N	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y
Rosenthal (D)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y
Siegler (D)	N	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Sieroty (D)	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	*
Suitt (D)	Y	Y	Y	Y	N	N	Y	Y	Y	Y	N	N	Y	Y	N	N	Y	Y	*	Y
Thomas, V. (D)	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Thomas, W. (R)	N	Y	Y	*	N	N	Y	Y	N	N	N	Y	Y	Y	*	*	N	*	N	N
Thurman (D)	Y	Y	Y	Y	Y	N	Y	N	Y	Y	*	N	Y	Y	Y	N	Y	Y	Y	Y
Torres (D)	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	N	Y	Y	*	Y	N
Tucker (D)	N	N	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Vasconcellos (D	N	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	N	Y	*	Y	Y
Vicencia (D)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Warren (D)	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	N	N	Y	Y	Y	Y
Wilson (D)	N	Y	N	Y	*	N	N	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
Wornum (D)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y

VOTING RECORDS

Listed here are the votes of legislators on recent major roll calls through February 15th.

Y - Yes **N - No**

*** — Absent or not voting**

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriations.

open-space lands. Failed 17-12.

SB 1258 (Greene) — Establishes the Southern California Association of Governments (SCAG) as the regional planning agency for the Los Angeles area. Failed 11-20.

SB 1324 (Alquist) — Limits authority of the state Air Resources Board over auto emission standards. Passed 21-9.

SB 397 (Carpenter) — Establishes a medical-malpractice compensation system. Passed 21-15.

SB 204 (Gregorio) — Increases alcoholic-beverage taxes to finance alcoholism programs. Attempted override of governor's veto failed 20-19.

SB 218 (Alquist) — Allows income tax deduction for purchasers of solar-energy devices. Passed 28-7.

SB 676 (Mills) — Prohibits producers or refiners of petroleum to own gas stations. Failed 16-17.

SB 1115 (Holmdahl) — Prohibits enforcement of local leash laws when dogs are on private property. Passed 21-11.

Assembly

AB 841 (Papan) — Prohibits banks from engaging in the insurance business. Passed 42-32.

AB 1725 (Vasconcellos) — Bans aerosol spray cans after July 1, 1977. Passed 44-31.

AB 2159 (Papan) — Increases fees mortgage-loan brokers may charge for real-property loans. Passed 41-28.

AB 1284 (Sieroty) — Allows lawyer to appear without a defendant only if a written waiver is filed with the court by the defendant. Passed 55-14.

AB 1483 (Sieroty) — Requires the Department of Corrections to establish standards for use of half-way houses. Passed 43-26.

AB 820 (Berman) — Limits grounds for revocation of teacher's credential for immoral or professional conduct. Failed 22-52.

AB 2443 (Meade) — Authorizes teaching credential in dance instruction. Passed 43-27.

AB 2026 (Alatorre) — Prohibits discrimination in pay rates between males and females. Passed 63-7.

AB 2190 (Meade) — Prohibits employers from refusing to hire individuals on a basis of height, weight or physical proficiency unless these tests are related to the job. Passed 44-28.

AB 2536 (Carpenter) — Allows person injured to choose own physician, including psychologist, under workmen's compensation law. Passed 46-29.

AB 15 (Warren) — Enacts comprehensive law to preserve prime agricultural land. Passed 41-35.

ACA 2 (Foran) — Proposed constitutional amendment authorizing use of gasoline-tax funds for development of mass transit systems. Adopted 54-21.

AB 1881 (Arnett) — Creates system of catastrophic health insurance through regular insurers and on optional basis. Passed 43-31.

AB 2346 (Antonovich) — Requires doctors to preserve life of live-born fetus resulting from abortion in second trimester and makes fetus ward of state. Passed 61-11.

AB 2445 (McVittie) — Bans use of silicone for breast enlargement. Passed 43-29.

AB 337 (Boatwright) — Would revise property-tax limits for local government. Failed 36-33.

AB 1047 (Hart) — Prohibits governmental agencies from examining income-tax returns of welfare recipients. Passed 41-31.

AB 150 (Cullen) — Enacts California Privacy Act requiring registration of firms maintaining computerized personal data on Californians. Passed 57-5.

AB 1667 (V. Thomas) — Provides that the Los Angeles Coliseum shall be considered sold out when 78,000 tickets are sold to a Los Angeles Rams game so that the games may be televised in Los Angeles. Passed 44-15.

AB 1896 (Siegler) — Changes Admission Day from September 9th to the second Monday in September. Passed 45-27.

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A WASHINGTON PERSPECTIVE . . .

By Lou Cannon

Of bucks and bears

Ronald Reagan likes to remind his well-fed audiences in Florida about their resentment when they see "a strapping young man ahead of them in line buying T-bone steak with food stamps while you wait to pay for your hamburger." One fine February day in Fort Lauderdale this Reagan line came out differently, and the presidential challenger instead referred to "the strapping young buck" who buys steak with food stamps. The word "buck", as the *New York Times* delicately phrased it in the 13th paragraph of a Reagan campaign story the following day, "to whites in the South generally denotes a large Black man." Reporters debated among themselves whether this expression was a racist slur but Reagan denied it and nothing much came of it. Fortunately for Reagan, it has proved of little consequence in the Florida primary where virtually all of the Black voters are Democrats.

The Ford campaign organization, made aware by Stu Spencer of Reagan's gift for impolitic turns of phrase, keeps track of all the challenger's verbal slips. But the Ford people have not been in a position to do anything about them lest they draw attention to the President's own phrasemaking. This they dare not do. Ford is a good man, certainly, and maybe even a good President. But he is a clear and present danger to the English language.

* * *

This is, after all, the President who believes that his replacement for Daniel Patrick Moynihan as ambassador to the United Nations will "follow the same policy toward some of the Third or Fourth World powers — calling a spade a spade." He is the President who invented the word "perception-wise" and who pronounces "judgment" as if it contained a middle "e" and "resilent" as if it were "res-IL-ent". He is the President who has given us "sickle-cell Armenia" and who toasted that "great leader of the state of Israel", Anwar Sadat.

What is the President's view on abortion? He agrees with the "descending opinion" of Justice Potter Stewart. What made America great? President Ford told a stunned New Hampshire audience that it was "the work ethnic". Defending the integrity of the Bureau of Labor Statistics figures on unemployment the same day, Ford claimed they were the work of a trusted "career non-professional". Few speeches fail to add to the collected wit and witticisms of Gerald Ford.

* * *

One would think that what this embattled President would need most is appointees, career non-professionals or not, who guard their tongues. Alas, he has not been so fortunate. White House Press Secretary Ron Nessen pushed the President's New Hampshire campaign off on the wrong foot by telling a pre-Christmas briefing that Ford was going to Vail for his vacation because of the poor skiing conditions in New Hampshire. And Peter Kaye, the Ford campaign committee press secretary, added his own insult to the first primary state by telling reporters on Air Force One as the President was en route to Manchester: "New Hampshire is a difficult state to organize. It's a helluva state to walk in, because if you go 40 miles outside the city there's nothing but trees and bears."

Kaye quickly became the target of a *Manchester Union Leader* editorial headed, "Bears, Elephants and Jackasses." But he is a witty man who took his own gaffe in stride. When the President campaigned in Florida the following week, Kaye was asked what there was 40 miles from the cities in that state. "Alligators and mangroves", he replied.

* * *

Reagan's wit is frequent and well-memorized; Ford's is rare and carefully crafted by speechwriter (formerly gagwriter) Bob Orben. When Orben or the President find a line that some audience laughs at, it is treasured and saved for other speeches. Thus, in Dearborn, Ford declared to a midwestern Republican conference: "I doubt that the United States government could make a Model T for less than $50,000." The Republicans laughed. Next week, in Nashua, N.H., the site of a brewery, the line returned as this variation on the theme: "I don't think the United States government could make beer for less than $50 a six pack." Again, a laugh, one of the very few in a 40-minute speech. It is a line that Ford doubtless will use again.

Reagan, who puts Ford in the shade as a stump speaker, is both blessed and cursed with a good memory. He remembers one liners, and a single speech of his usually is sprinkled with more quips than Ford would use in a month of campaigning. But Reagan's worst lines are as easily dredged from memory as his better ones. They persist year after year, coming to mind when they sometimes seem least appropriate.

* * *

A reporter pondering the "strapping young buck" line reflected that Reagan seemed to have a dim view of Africans. Responding to a question at a New Hampshire high school, Reagan said of the new African states: "It wasn't too many years ago when they invited someone for lunch, they had him for lunch." It was a new phrase to the national reporters but Reagan had said it all before. The careful research of the Ford campaign produced this line from Oct. 11, 1965, when Reagan was preparing for his gubernatorial campaign: "When the emerging African nations have a man for lunch, they really have him for lunch." Nothing changes, but it should.

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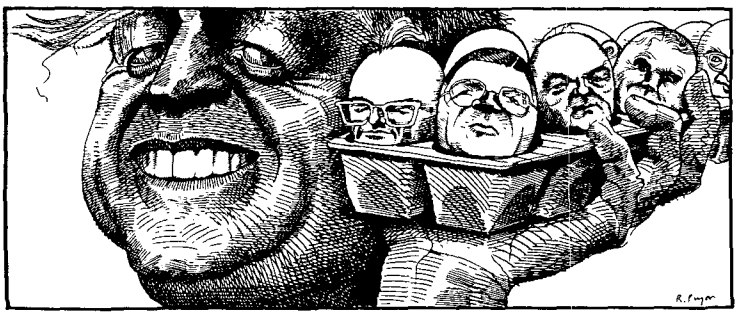

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Politics is perhaps the only profession for which no preparation is thought necessary.

—Robert Louis Stevenson

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